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101st Congress
*2d Session*

SENATE

Report
101-316

# NATIONAL AFFORDABLE HOUSING ACT

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## REPORT

OF THE

## COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 566

together with

ADDITIONAL VIEWS

June 8 (legislative day, April 18), 1990.—Ordered to be printed

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101st CONGRESS
*2d Session*

SENATE

REPORT
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# NATIONAL AFFORDABLE HOUSING ACT

JUNE 8 (legislative day, APRIL 18), 1990.—Ordered to be printed

Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, submitted the following

# REPORT

together with

## ADDITIONAL VIEWS

[To accompany S. 566]

The Committee on Banking, Housing, and Urban Affairs, having considered the same, reports favorably a Committee bill (S. 566) to authorize a new Housing Opportunities Partnership Program to support State and local strategies for achieving more affordable housing, to increase homeownership and for other purposes.

## LEGISLATIVE HISTORY OF THE ACT

The Committee on Banking, Housing, and Urban Affairs, to which the bill was referred, approved the bill on May 2, 1990 on a Roll call vote with 16 in favor and 4 opposed. The bill is reported favorably thereon, and the Committee recommends that the bill as amended do pass.

The National Affordable Housing Act (S. 566) is the product of an intensive, three-year effort to review the country's housing needs and develop a national housing policy that can provide more affordable housing for American families. The Committee bill reflects suggestions from a nationwide cross-section of state and local officials, private developers, experts in housing finance, housing managers, nonprofit housing organizations, tenant representatives, low-income housing advocates, housing researchers, and other prominent housing leaders. The overwhelming consensus of that bipartisan consultation on housing is that current housing policies are not adequate to the country's needs.

During the last decade, while the problem of housing affordability intensified, federal support for housing was devastated by severe budget cuts, policy neglect, systematic mismanagement, and outright fraud and abuse. Those who had been working with the Department of Housing and Urban Development (HUD) knew that the department was in severe distress and in need of revitalization. Revelations of widespread scandal in the previous Administration's management of HUD further highlighted the need for the sweeping overhaul of federal housing policy that the Committee bill would provide.

The Committee bill was shaped through four major initiatives. First, on August 12, 1987, Senate Housing Subcommittee Chairman Alan Cranston and Ranking Minority Member Alfonse D'Amato invited major organizations and leading individuals concerned about housing to recommend "building blocks" for comprehensive housing legislation. The response was an outpouring of enthusiastic work and thoughtful ideas from around the country. Some 1,100 pages of recommendations were received, reviewed and published in October 1987 as "A New National Housing Policy", a joint committee print of the Senate and House Banking Committees (S. Rpt. 100-58).

Second, beginning about the same time, the MIT Department of Urban Studies and Planning independently initiated the MIT Housing Policy Project to evaluate the lessons of the previous decade of housing policy—what had worked and what had not—and to identify housing problems the country will face over the next decade. The project commissioned 20 major papers from leading housing researchers. The papers were presented and reviewed at three day-long conferences held in the U.S. Capitol in the late fall of 1987. The papers are published in book form as "Building Foundations: Housing and Federal Policy" (U of PA Press, 1990).

Third, Chairman Cranston and Senator D'Amato invited James W. Rouse of the Enterprise Foundation and David O. Maxwell of Fannie Mae to form a blue ribbon panel to recommend a new framework for national housing policy. The Rouse/Maxwell National Housing Task Force was formed as a bipartisan group of 26 leaders with outstanding national reputations in housing policy, finance and development. The task force held 2-day meetings at least every two weeks over a period of more than four months, hearing testimony, reviewing research, and arriving at its findings and recommendations. The task force also formed an advisory committee to draw on the experience of an even broader representation of housing leaders. The task force released its report, "A Decent Place to Live" in March 1988. The Senate Housing Subcommittee found the task force recommendations to be a sound framework for major new legislation.

Fourth, the Senate Housing Subcommittee held more than 30 days of hearings, in Washington and elsewhere in the country, to prepare the National Affordable Housing Act. Thousands of additional hours were spent by subcommittee members and staff in meetings with groups and individuals to refine the structure of the bill and its various provisions.

The Subcommittee has been determined, from the very beginning of this 3-year process, to build this legislation on the broadest possible consensus about effective housing policy and to develop the legislation openly, with the broadest possible involvement of experienced leaders who are committed to affordable housing for Americans.

The Housing Subcommittee began with oversight hearings on the country's housing problems. Two days of hearings were held in April 1988 to review the findings and recommendations of the National Housing Task Force.

The Subcommittee explored the legislative feasibility of recommendations that emerged from the "building blocks" papers, the MIT Housing Policy Project, the Rouse/Maxwell Task Force, hearing testimony and other written comment. The Subcommittee asked its staff to prepare staff concept papers describing in detail legislative proposals based on the most promising of these recommendations. These staff concept papers were released on August 12, 1988 and distributed widely for comment and criticism. The Subcommittee held 4 days of hearings to recive broad-based response to the Concept Papers in September, 1988.

On the basis of this testimony, the Subcommittee substantially refined its legislative proposals and began drafting legislation.

The National Affordable Housing Act was introduced on March 15, 1989, with bipartisan cosponsorship of 29 Senators. The full legislative package was introduced as Senate bill S. 565, which was referred to the Senate Finance Committee because in included amendments to the tax code. These included provisions to permit first-time homebuyers to withdraw funds without penalty from Individual Retirement Accounts and 401(k) retirement plans for the purpose of making a downpayment on a home, and other provisions to extend the Low-income Housing Tax Credit and Mortgage Revenue Bonds. An identical legislative package, with the exclusion of these tax code amendments, was simultaneously introduced as S. 566, which was referred to the Senate Banking Committee. Subsequently, a total of 41 Senators joined as cosponsors of the legislation. Companion legislation was introduced in the House of Representatives as H.R. 1532 and H.R. 1637.

The Senate Subcommittee on Housing held thirteen hearings on major components of the bill throughout April, June, July and September of 1989. Two of these were field hearings held in North Carolina and Massachusetts. Topics of the hearing included homelessness, supportive housing, housing investment, homeownership, rental assistance, public housing, low-income housing preservation, rural housing, Indian housing, community and economic development, and drugs in federally assisted housing.

These hearings drew more than 125 witnesses from around the country representing a wide range and housing interests: elected officials, non-profit organizations, developers, bankers, tenants, State and local housing officials and academics. Whenever the subject matter permitted, the Subcommittee used a roundtable hearing format, which permitted a large number of witness and Subcommitee members to explore different points of view and difference of opinion.

Three additional oversight hearings were held in August and September of 1989 to review the long-term financial strength of the FHA insurnace funds. Testimony was received from the General Accounting Office, Price Waterhouse, and the Assistant Secretary for Housing/FHA Commissioner C. Austin Fitts.

The Banking Committee held 7 oversight hearings on fraud and abuse in the Section 8 Moderate Rehabilitation program in response to the HUD Inspector General's April 1989 audit. The Committee subsequently created a special subcommittee to conduct a full investigation. The Housing Subcommittee revised the National Affordable Housing Act to take findings of that investigation into account and to avoid a repeat of the program abuses uncovered in the investigation.

On October 3, 1989, HUD Secretary Jack Kemp released the Administration's HUD Reform Package. Since the Administration was not ready to submit a full package of housing legislation, the Committee agreed to a request from the Administration to delay action on comprehensive housing legislation until the second session of the 101st Congress. Instead, the Committee took accelerated action on a separate HUD reform bill combining elements of the Administration's reform package and HUD reform provisions included in the Senate's National Affordable Housing Act. This legislation, the Department of Housing and Urban Development Reform Act of 1989, was passed by the House and Senate on November 21st under suspension of rules and signed into law as P.L. 101-235.

On March 13, 1990, the Administration announced its package of housing legislation, the HOPE Initiative. The package was introduced in the Senate by request on March 20, 1990 as S. 2304. On March 20, 1990, the Senate Banking Committee received testimony on this legislation from Secretary Kemp. On March 29, the Housing Subcommittee held a roundtable hearing on the HOPE Initiative a which the comments and recommendations of leading housing groups were received. The Subcommittee staff held four extensive meetings with Administration represenatives to discuss the details of the HOPE initiative and concerns that had been raised on a bipartisan basis by Senators and outside observers. The HOPE Initiative, with refinements to address significant concerns, was incorporated as distinct components of the National Affordable Housing Act.

As the date of Committee markup neared, it became increasingly clear that the Administration would not meet its promised timetable for release of a major Price Waterhouse actuarial study of the FHA insurance fund. The Committee is profoundly concerned by testimony received in a series of Housing Subcommittee oversight hearings that the financial condition of FHA was seriously weakened during the last 10 years. The Committee intends that this legislation will contribute to the long-term financial strength of FHA. The Committee decided that, until the results of this study were available, the Senate should not act on legislative changes related to the FHA fund. Provisions in Title II of the bill, which were designed to expand homeownership opportunities, were therefore removed from the bill pending release and detailed assessment of the Price Waterhouse actuarial analysis.

One week prior to markup, a Committee Print of S. 566 incorporating many refinements suggested during the previous months was distributed for review. The Banking Committee held its markup of the bill on May 2, 1990 and ordered the bill favorably reported with 15 amendments by a vote of 16 to 4.

## A NEW NATIONAL HOUSING POLICY [1]

*Overview of the Bill.*—The Committee bill would authorize a comprehensive, new housing policy that can mobilize sustained national effort to provide more affordable housing for all Americans. Federal housing assistance would be consolidated and made more adaptable and understandable. Funding would be authorized for 3 years.

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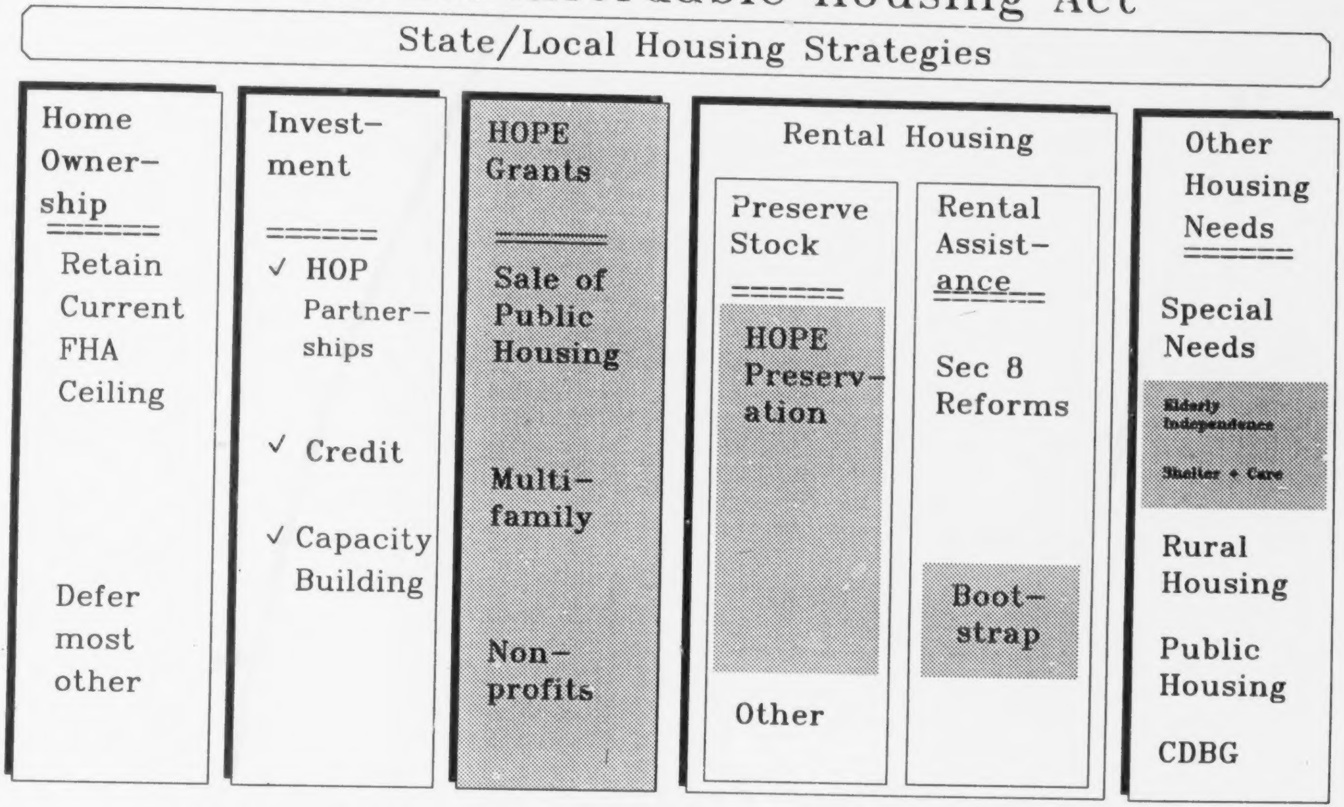
[1] Although the views expressed are those of the Committee, parts of this section draw on Housing Policy for the 1990's, authored by Langley C. Keyes and Denise DiPasquale as the capstone paper of the MIT Housing Policy Project (MIT, 1988).

# National Affordable Housing Act



State/Local Housing Strategies

Home Ownership

Retain Current FHA Ceiling

Defer most other

Investment

✓ HOP Partnerships

✓ Credit

✓ Capacity Building

HOPE Grants

Sale of Public Housing

Multi-family

Non-profits

Rental Housing

Preserve Stock

HOPE Preservation

Other

Rental Assistance

Sec 8 Reforms

Boot-strap

Other Housing Needs

Special Needs

Elderly Independence

Shelter + Care

Rural Housing

Public Housing

CDBG

The Committee bill merges HUD's HOPE Initiative, indicated by shading, with revised provisions of S. 566.

6/8/90

*Homeownership.*—The bill would extend for 2 years the $124,785 ceiling on FHA-insured mortgages. Most other provisions to expand homeownership opportunity are deferred pending HUD release of a major actuarial analysis of the FHA insurance fund.

*Investment in Affordable Housing.*—The core of the bill is creation of a Housing Opportunity Partnerships (HOP) program building a long-term investment partnership among the federal, state and local governments, and the private sector. States and localities would be responsible for developing a 5-year housing strategy and for selecting and adapting appropriate ways to expand the supply of affordable housing, with preference to rehabilitation of substandard stock. A special "one-stop" office in HUD would be responsible for developing effective model programs and for establishing strict program accountability and funding control Funds would be distributed to qualifying states and localities partly by formula, partly by incentive allocation. State and local resources and policies would have to help achieve affordable housing.

*HOPE Initiative.*—The Administration's proposed HOPE Grants would help low-income families buy public housing and other foreclosed property owned by HUD. The bill also includes, with refinements, other Administration proposals to (1) preserve the low-income affordability of federally assisted housing that could soon be lost through prepayment, (2) authorize an "Operation Bootstrap" to provide supportive services to voucher recipients, (3) create "Elderly Independence" to provide scattered-site supportive housing, and (4) initiate "Shelter plus Care" to provide rental assistance and supportive services for homeless persons with disabilities.

*Rental Assistance.*—Vouchers would be revised to ensure that tenant rents are more affordable. Certificates would be amended to give tenants more flexibility in the choice of housing.

*Supportive Housing.*—The bill would revise housing programs for elderly persons, persons with disabilities, homeless persons, and low-income families with children to reflect the fact that housing for persons with special needs must be more than bricks and mortar, but must also include an appropriate package of supportive services.

*Rural Housing.*—Farmers Home assistance for homeownership and rental housing would be expanded, with special attention to low-income areas that have been underserved.

*Public Housing.*—Public housing would be revised to give HUD more authority to resolve management problems in troubled public housing agencies. The major reconstruction program would be consolidated within CIAP modernization for renovation of severely distressed projects. "Project Independence" would give public housing tenants greater access to education and employment opportunities.

*Community Development.*—The bill would extend authorization for CD Block Grants with the current program structure.

*Origins: A Tale of Three Commissions.*—Over a period of two decades, national housing policy was the subject of comprehensive review by three blue-ribbon commissions: the Kaiser Committee on Urban Housing, formed under President Johnson in 1968; the President's Commission on Housing, formed under President Reagan in 1982; and the Rouse/Maxwell National Housing Task

Force, formed at the request of the Senate Housing Subcommittee in 1988. Each of these prestigious groups—reflecting changing perceptions of the country's housing problem and differing views of the consequences of government action or inaction on housing—arrived at a substantially different recommendation for national housing policy.

In the late 1960's the Kaiser Committee saw the country's primary housing problem to be the structural inadequacy of housing for low-income families. The committee proposed a detailed solution of large-scale federal subsidies to construct or rehabilitate 6 million low-income housing units over a 10-year period. The committee believed the federal government must have a clearly dominant role in housing—although the committee expected federal programs to be a joint effort with the private sector, and state and local government. If joint efforts failed, however, the committee "would then foresee the necessity for massive federal intervention, with the federal government becoming the nation's houser of last resort." The committee believed that housing should be an entitlement for all Americans.

In the early 1980's, the Reagan Commission had a much different view. The Commission noticed that the quality of U.S. housing had steadily improved. The commission considered the country's remaining housing problem, in essence, to be the inability of low-income people to afford private housing that was readily available. The Reagan Commission's proposed solution was a program of income supplements. For localities with tight housing markets, the commission recommended that housing production could be an eligible use of Community Development Block Grants. The commission proposed a sharp reduction in federal responsibility for housing, believing that federal action can only offer limited good and deep harm. The commission advocated almost exclusive reliance on rental assistance targeted to the poorest households, which the commission estimated to number about 1.1 million families.

By 1988, the Rouse/Maxwell Task Force could look back at the consequences of policies recommended by the two previous commissions. The Rouse/Maxwell Task Force came to believe that neither approach recommended by the two previous commissions could serve the country well in the coming years.

Massive federal construction programs had fallen victim to budgetary pressure and weakened political commitment. In some cases, they had produced poorly designed housing. The Reagan era retreat, however, had exacerbated emerging housing problems. Homeownership rates were declining for the first time in decades as the dream of owning a home drifted further out of reach of first-time homebuyers. Between 1973 and 1983, the United States permanently lost some 4.5 million affordable rental units through demolition or structural conversion, while the number of very low-income families was rising. Housing that very low-income families can afford is recently being lost at the rate of 1.5 million units a decade. The country faces the looming additional loss of 2 million federally assisted units in the decade to come.

The task force noted a "paradox of housing in America"—for most of our citizens, the promise of "a decent home" has become a reality; but for millions, we have not only fallen short, we are losing ground. The task force came to see low-income housing not simply as a problem of either structural inadequacy or affordability alone. The task force saw a looming new phenomenon: the country's supply of low-cost housing has been disappearing.

The task force believed the federal government would have to reassume its responsibility for affordable housing, but not in a way that imposes "made in Washington" programmatic solutions. The task force called, instead, for federal leadership that strengthens—across the country—a "new wave" of local housing partnerships among states, local government, private industry and nonprofit organizations. The task force recommended that federal support be more readily adapted to differing local needs. The task force emphasized the need for assistance to low-income families, but its report also recognized a need to help moderate-income and middle-income families, who increasingly find suitable housing unaffordable.

*Vast resources to be mobilized.*—After reviewing recommendations of these three commissions and other leading groups, the Committee acted with knowledge that the United States has enormous housing resources that can be put to work more effectively. We have the world's most highly developed systems for financing and producing housing. State and local governments have been acquiring new sophistication in support of affordable housing. Private industry—from mortgage lenders and housing developers who have housing expertise, to employers whose recruitment of skilled employees is hampered by the high cost of housing—is responding to the housing problem. And tens of thousands of Americans have organized to respond to the tragedy of homelessness and to provide decent housing for those who need it.

In recent years, imaginative housing partnerships have formed throughout the country. They are bringing together new alignments of state and local government, private industry, non-profit organizations, and community groups to preserve and expand the supply of affordable housing. They have been finding better ways to meet the soaring need for low-income and moderate-income housing. But, according to virtually unanimous testimony received by the Committee, they need revitalized federal participation to fulfill their potential.

Only federal leadership can mobilize the sustained, coherent, nationwide action that is needed to provide more affordable housing. Federal leadership is needed to achieve a coherent package of tax policies, capital investment, rental assistance, mortgage insurance, regulation of mortgage lending, and effective incentives for other sectors. The Committee is convinced that, with well-designed legislation, the impact of limited federal funds can be greatly multiplied by the resources of states, communities, private industry and nonprofit organizations.

*Key issues for housing legislation.*—The Committee bill resolves 10 key issues confronting comprehensive housing legislation.

1. *The level of funding.*—The Committee understands that, for the foreseeable future, federal housing policy must be carried out in an environment of intense budgetary pressure. Since 1980, federal housing assistance was cut by 80 percent in budget authority,

which measures the long-term federal commitment to affordable housing.

The Committee is aware that, since housing assistance is provided with multiyear contracts, the full consequences of those cuts in budget authority could not be felt during the Reagan years. In fact, the numbers of families receiving assistance and federal housing outlays continued to increase during the Reagan years, essentially because (1) prior-year contracts had not yet expired, (2) housing funded under the Ford and Carter Administrations was finally completed and opened for occupancy under the Reagan Administration, and (3) Congress continued to provide incremental housing assistance, although in greatly reduced numbers, to low-income families on waiting lists.

The real impact of the recent cuts in funding for housing assistance is only now being felt as older contracts start to expire. The impact will be felt for years to come as Congress will have to provide substantial increases in funding just to avoid losing ground on low-income housing and cutting assistance to those now receiving it.

The Committee believes that in this budgetary environment, a new housing initiative should be designed so that it is effective at relatively low levels of funding in the initial years. The Committee bill therefore places priority on the most pressing problems: to perserve the existing stock of federally assisted low-income housing, and to expand the supply of affordable housing. For this reason, the Committee designed the bill so that it could build on imaginative housing activities that are already underway at the state and local levels.

The Committee also believes that a new housing initiative should be designed so that it would be effective at modest levels of funding and could smoothly be expanded substantially as the budget permits. The Committee bill therefore would strengthen capacity for housing activity across the country among states and localities. The HOP investment partnership, in particular, would use federal funds to leverage state, local and private resources.

The Committee bill would authorize an increase of $3.1 billion in budget authority over the fiscal year 1991 baseline. Authorizations for fiscal years 1992 and 1993 would be above the CBO baseline by $4.2 billion and $4.8 billion respectively. Those levels would provide housing assistance to 730,000 low-income families who badly need it.

The Committee chose a funding level that is consistent with the budget resolutions favorably reported by the Senate Budget Committee and passed by the House, although the Committee notes that it had received convincing testimony that growing housing needs justify substantially higher funding levels.

The central HOP investment partnerships would have an initial authorization of $2 billion, which the Committee believes is needed to provide an adequate incentive for states and localities to take substantial steps to make housing more affordable. That total includes $1.45 billion in new funds and $450 million through consolidation of smaller programs. HOPE Grants would be authorized at $100 million in the first year, with increases in subsequent years.

Low-income rental assistance would be increased by $638 million. Incentives to preserve the low-income use of federally assisted housing would be increased by $192 million.

The funding mechanism for housing for the elderly and persons with disabilities would be changed to provide more units with less budget authority.

Homeless assistance would be increased by about $250 million. Public housing modernization and operating subsidies and Indian Housing production would be increased by $306 million. And Rural Housing would be increased by $300 million.

2. *Tenant assistance and expanding the supply of affordable housing.*—The Committee believes that tenant-based rental assistance, such as vouchers, should continue to be an important element of federal housing policy. The Committee bill would improve section 8 vouchers and certificates by correcting problems that have been extensively documented—problems such as the high numbers of voucher holders who pay an extremely high share of their incomes for rent and the inability of certificate holders to live in a home renting for more than the HUD established fair market rent. The HOP investment partnership is designed explicitly to make vouchers more useful, particularly in tight housing markets, by expanding the supply of decent housing that rents at or below the fair market rent and is available to voucher holders.

The Committee recognizes, however, that a balanced national housing policy must not only offer tenant rental assistance but also provide for an adequate supply of affordable housing.

Although the Committee is aware that some oppose federal assistance for new housing production under any circumstances, the Committee understands that no one approach can make sense across the diversity of local housing markets. A blanket position against new production is too simplistic to be a responsible national housing policy.

The HOP investment partnership, in paragraph 312(a)(2), clearly requires participating jursidictions to give preference to rehabilitation of substandard housing where that is most cost effective. Moreover, HOP is structured so that any new construction assisted would likely be small-scale, scattered-site, neighborhood-based and mixed-income housing—that is, it would be the sort of affordable housing that has been successfully produced by imaginative local housing partnerships in many parts of the country in recent years.

The Committee, without objection, adopted an amendment to remove from the bill provisions that (1) would have permitted the Secretary to designate areas within which HOP funds could not be invested for new construction and (2) would otherwise have sharply constrained the ability of participating state and local jursidictions to achieve their affordable housing objectives through new construction.

The Committee recognizes that states and localities in newer, growing areas can achieve an adequate supply of affordable housing only by providing it within new structures. The Committee is also aware of compelling testimony from leading nonprofit housing organizations that some new construction is often an indispensable stimulus for neighborhood rehabilitation efforts, particularly in older city neighborhoods that have many dilapidated houses and vacant lots.

The Committee is aware that some, on the basis of national vacancy rates, believe the country already has an adequate supply of housing. The Committee, however, recognizes that national housing supply statistics are a very misleading measure of housing conditions in specific local markets. Vacancies in Houston or Denver provide no help to families seeking affordable housing in Los Angeles, Atlanta, Seattle or other places with growing job opportunities. The Committee further recognizes that rental vacancies tend to be concentrated in higher priced housing—among units that are not available and affordable to low-income and moderate-income families, even if they hold a voucher.

While HUD sets the voucher fair market rent at the 45th percentile rent paid by families who recently move to decent housing, 73 percent of the increase in vacancies between 1981 and 1987 occurred among units renting *above* median. The Committee also recognizes that the vacancy rate for units affordable to very low-income families is extremely low in most markets, and some experts believe that even those statistics overstate the true rate of vacancy in decent housing because they include many units that are uninhabitable or suffering from disinvestment.

3. *Choice among a federally defined program, a block grant, or an investment partnership.*—The Committee bill would bring the federal government into a long-term investment partnership for affordable housing. The legislation is designed to build a nationwide system of responsive housing institutions rather than to define a fixed national program.

In the past, federal housing programs defined a specific way in which federal housing assistance could be used. The problem is that a rigid, nationwide housing program, however brilliantly it may be conceived, will tend to be unstable. Program design gets compromised as it passes through Congress and the bureaucracy into implementation. A program that is well-designed for the needs of one locality probably will be ill-suited to other, differing localities. Or, a new program may be well crafted for one set of economic and political circumstances only to become unworkable when those conditions change. As a result, a few years after any new program is enacted, the seeds of its destruction begin to sprout.

Such reasons do not mean that national housing programs cannot be well-designed to serve a defined group of persons with special needs or to improve an established delivery system, such as public housing. However, they have meant that past housing policies too often have appeared to be a succession of narrow programs, each discredited and rejected a few years after enactment. As a result, many could claim that federal housing programs were impossibly complex—a confusing mixture of objectives, program names and section numbers. Some have thought that such complexity provided protective camouflage and made it hard for housing to be attacked successfully. For some time, however, needles complexity has worked to the disadvantage of federal housing assistance.

When development of new legislation began, the Committee was aware of a second possibility The Reagan Commission and others had recommended the elimination of discretionary housing programs and the delivery of federal housing assistance to states and localities through Community Development Block Grants or some similar formula grant program. The Committee, however, received extensive testimony that federal housing assistance must be provided not just as grant money but in a way that recognizes the special requirements of housing. Among those requirements is that effective federal housing policy must closely coordinate several types of federal housing assitance: (1) capital subsidies to reduce costs, (2) credit enhancements, such as mortgage insurance and other methods to attract private financing, (3) rental assistance for low-income families, such as vouchers or certrificates, (4) technical assistance to get the best methods adopted nationwide, (5) interaction with the private housing investment and development sectors, which have important national and international characteristics, and (6) ongoing oversight to make sure the housing is well-managed and affordable for decades to come.

The Committee bill adopts a third approach: an investment partnership. The Committee believes that federal housing assistance must be more enduring and resilient than is possible with a fixed federal program. Therefore, the Committee bill provides a way to adapt program design to differing local circumstances and changing economic conditions. And the Committee believes that housing needs more comprehensive oversight and national innovation than is possible with a housing block grant. Therefore, the Committee bill provides for an ongoing housing investment partnership between government at all levels and the private sector.

The Committee bill builds on the lesson that the most vital legacies of earlier housing policies tend to be *not* the programs, but the *institutions* that were created—institutions that have remained faithful to important public purposes, constantly acquiring new skills, designing new solutions, overcoming obstacles and adapting to changing circumstances.

National institutions, such as FHA, Fannie Mae, Freddie Mac, and Ginnie Mae, provide homebuyers with the benefits of a strong, efficient national mortgage market. These institutions continued to carry out important public purposes despite profound market change and political hostility in recent years. The power of housing institutions has also been demonstrated at the state and local level by housing finance agencies, by community affairs agencies and, even working under the most difficult circumstances, by many public housing agencies. Experience has shown that institutions must be given a clear national mission and a strong incentive to pursue that mission and to innovate.

The goal of more affordable housing stock will require long-term strategies that are tailored to local housing markets, which differ profoundly from one another. One locality may need substantial production. Another may need efficient, small-scale rehabilitation. The variations are endless. And the country will need a strong network of creative institutions—each mastering its local conditions, taking different approaches, using different techniques and mobilizing different resources.

The Committee bill would therefore enhance institutions at the state and local level and would build them into a nationwide partnership that can achieve national housing objectives. Fortunately, we don't have to begin from scratch because many outstanding institutions—state and local housing agencies, non-profits, and various forms of public/private partnerships—already exist and are ready to make good use of additional resources that only the Federal Government can provide.

Many of these organizations are already demonstrating ways to achieve joint investment in affordable housing as a long-term national asset. They provide a strong base on which the Committee bill would build.

4. *Avoiding mismanagement, fraud and abuse.* The Committee is aware that some claim that federal assistance for housing construction is peculiarly corrupting, even claiming that the HOP partnerships would replicate at the state and local level the scandals that have plagued HUD in recent years. The Committee believes that this profoundly misinterprets the recent HUD scandals and misstates the distinctive features of the Committee bill.

First, the HUD scandals did not emerge from any effort to expand new construction. On the contrary, individuals implicated in the scandals were among the vocal opponents of federal assistance for housing construction. The scandals emerged from the tragic practice of filling top HUD positions with people who were inexperienced, incompetent, hostile to the department's mission, intent on demoralizing the career staff, and, in too many cases, easily corrupted. A proper response to the scandals is not to eliminate new construction, but to make sure that sensitive HUD posts are filled with talented and committed people.

Second, the HUD scandals resulted when highly placed appointees were permitted to circumvent or dismantle established systems of accountability. Funds were distributed in ways that were mysterious except to people who hired consultants with inside connections. Because of lax oversight, developers were permitted to layer subsidies from several programs and increase profits to high levels unintended by public policy. The HUD Reform Act of 1989 eliminates those conditions and provides stiff penalties for abuse.

The Committee bill provides additional protections to avoid any repeat of those failures At the national level, the bill eliminates the root sources of the recent scandals. The bill would allocate housing assistance through an open objective process to States and local governments. Procedures for distributing funds—whether by formula or by incentive allocation—would be publicly established and fully documented. The bill would remove HUD from the process of granting funds to individual projects and therefore free HUD for impartial monitoring and oversight of state and local housing activities.

The Committee bill decentralizes the choice of housing activities, but it does not decentralize responsibility for program accountability and funding control. Since HOP is a new initiative, HUD's chief financial officer could establish high-quality accounting and accountability systems from the very beginning. HOP would be administered by a one-stop office that would have responsibility for HOP alone and would therefore have a strong incentive to ensure that HOP is administered well for the long term. HOP activities would be subject to extraordinary oversight. The HOP Advisory

Board, comprised of 18 members with established reputations of leadership, would have access to all important information. Advisory Board reports to Congress would include minority views to increase the likelihood that causes of concern would be identified. The bill also requires full financial audits annually either by an independent auditor or, if Congress or the Comptroller General prefers, by GAO. The bill gives GAO full access to HUD's program records. Therefore, any pattern of abuse would be brought quickly to light.

At the state and local level also, the Committee bill would avoid any replication of the conditions that led to the HUD scandal. HOP funds could be used only in compliance with strategies approved after public hearings. The funding would remain in revolving trust funds under the Secretary's control until they are invested in affordable housing. Project selection would have to be done in the sunlight, according to public procedures with full documentation. The basis on which any funding award is made or denied would have to be fully documented. HUD would have powerful tools for overseeing state and local activities and could impose tough penalties for abuse. The public, local newsmedia and competitors for scarce housing resources would have full access to information regarding the use of HOP funds.

5. *Program consolidation.*—The Committee bill would consolidate 9 existing programs into the HOP investment partnership. HOP was designed to be one flexible delivery system carrying out many of the purposes of older, more narrowly focussed programs to expand the supply of affordable housing. The Committee recognized that no one program can properly respond to all housing needs—therefore, distinct delivery systems would be maintained for public housing operation and modernization, rental assistance, rural housing, housing for elderly persons and persons with disabilities, homeless assistance, a national strategy to preserve the federally-assisted housing stock and others.

The largest of the consolidated programs would be the public housing development program. The major reconstruction (MROP) portion of the program, which accounts for 20 percent of the funding and is used to salvage severely distressed projects, would be continued as a distinct activity within the CIAP modernization program. The remainder of public housing development would be consolidated into HOP, and the incentive allocation of HOP would be amended to encourage activities that meet the housing needs of families with incomes below 30 percent of area median.

Rental rehabilitation, would be continued on a transitional basis for two years. To do so, the Secretary would be authorized to set aside a portion of HOP funding, equal to the fiscal year 1990 rental rehabilitation program funding, for use in conformance with current rental rehabilitation program regulations. Nehemiah Housing Opportunity Grants would be terminated since "Nehemiah" homeownership assistance was intentionally designed into the purposes and eligible activities of HOP. Homeownership counselling, moderate rehabilitation and rehabilitation loans are eligible activities under HOP. The congregate services program for frail elderly persons would also be consolidated into HOP, although the Committee intends that continued funding for projects now assisted under the congregate services program will be available under Project Retrofit. Urban Homesteading activities would be continued under the HOPE program.

6. *Income targeting of benefits.*—Federal housing subsidies, including direct subsidies and tax expenditures, have long benefitted a broad spectrum of the population. About 80 percent of all federal housing assistance goes as an entitlement to higher income homeowners through the mortgage interest and real estate tax deductions. Direct subsidies for low-income families, such as rental assistance and assisted housing, have been funded at levels that serve less than one-third of those eligible. Many working families receive no housing assistance because their incomes are too high to qualify for direct subsidies and too low to benefit from tax expenditures.

The Committee believes that, in general, scarce resources should go to the most needy. The Committee bill is designed to do that. However, the Committee recognizes that, in practice, the question of proper income targeting can be drawn too simplistically.

First, any definition of "the most needy" will unavoidably be arbitrary. Wherever, the line is drawn, a narrowly targeted housing policy will produce irrational distinctions. Assistance available to one family will be denied to another falling just outside the line of eligibility. Resentment and opposition will build against a policy that excludes large segments of the population who experience housing deprivation. Rigid targeting that ignores the housing problems of many low-income, moderate-income and middle-income families will be perceived as inappropriate especially in light of the housing benefits provided to upper income households through the tax code.

Second, housing built solely for the poor tends to isolate tenants geographically and socially. If housing is to be occupied only by subsidized tenants, a developer's concern for location and design is weakened, and the result too often can be low-income housing that is poorly designed and placed in bad locations. In contrast, a policy that encourages mixed-income housing is more likely to give developers an incentive to build for the market, find good sites and produce marketable designs. More units of affordable housing can result because neighborhood opposition is lessened.

Third, it is difficult to identify precisely the segment of the housing market that serves the poor. The housing market is composed of a large number of interrelated submarkets and the problems found in one submarket can profoundly influence others. Barriers to homeownership build pressure on rental housing. And when a rental market tightens, a broad spectrum of families are hurt in the competition. One family must live too far from their jobs. Another family must settle for a home that is too small. Yet another must accept substandard housing. Holders of vouchers find it increasing hard to find suitable housing. And those at the very bottom are forced to live in garages or on the street. As William Apgar, of the Harvard Joint Center for Housing Studies, has said, "there is no single housing problem in America today but a series of interconnected problems that confront a wide range of households."

Fourth, when a housing program benefits only those with the lowest income, then the cost per unit tends to be highest, the numbers assisted tend to be lowest, the political support will be weakest, and the program will be most vulnerable to deep cuts or elimination.

The Committee is convinced that nation's housing needs require federal assistance that maintains broad support over time. The Committee bill is therefore comprehensive legislation that targets assistance toward very low-income and low-income families but is also intended to address the various interrelated parts of the country's housing problem.

7. *Rural housing—the geographic distribution of assistance.*—The Committee recognizes that housing needs in rural areas require special attention. Some 4.3 million families in small towns and rural areas are burdened with serious housing problems, including 2 million living in substandard housing. Some 72 percent of rural, poor, renter households pay over 30 percent of their income for rent. More than 200 rural counties have poverty rates above 20 percent and substandard housing rates above 10 percent. According to the Congressional Research Service, rural housing production has been falling behind demand by 75,000 starts annually.

The Committee believes that the Farmers Home Administration provides a sound system for delivering housing assistance particularly in areas not adequately served by alternative sources of home mortgage credit. That system is oversubscribed, with backlogs of approved pre-applications and applications for section 515 rural rental housing nearly four times the amount appropriated in fiscal year 1990. Nationally, FmHA can fund only one in three section 502 homeownership applications it receives. Serious backlogs in demand also exist in farmworker housing, as well as the housing preservation and section 504 grant programs.

The Committee bill therefore would reauthorize existing programs with an annual increase of about 4 percent to help address this substantial backlog.

8. *Empowerment of low-income persons.*—The Committee believes that economic empowerment of low-income families is an important result of an effective national housing policy. Wherever possible, federal housing assistance should be structured to provide helpful way stations between poverty and economic self-sufficiency.

The Committee bill largely incorporates the Administration's HOPE Initiative, which is intended to expand homeownership and economic opportunities for low-income families. Improved homeownership opportunity can be an important method for empowering people, along with increased opportunities for education, employment training, jobs, child care, health care and other supportive services.

The Committee intends that this bill shall supplement housing assistance with other empowering activities. The bill would improve education and employment related services for families residing in public housing with children. The bill would also test the effectiveness of linking Section 8 rental assistance and economic self-sufficiency services. Transitional homeless assistance activities have also been expanded to include the provision of child care to enable homeless persons to seek job and housing opportunities.

9. *Supportive housing.*—In the past, HUD has tried to limit its responsibility for housing either to "sticks and bricks"—that is, as-

sistance to physical structures—or to the physical improvement of surrounding neighborhoods. HUD has considered human services to be the concern of other agencies, such as HHS, and has tried to avoid responsibility for even small supportive service programs, such as the frail elderly congregate services demonstration. The Reagan Administration's drive for cost containment often prevented HUD-assisted housing even from providing adequate common rooms or other space for supportive services.

Although housing quality is always imbedded in a matrix of human needs, there is some justification for this division of responsibility—HUD's funding and its capacity to manage service programs are both limited. However, the Committee heard extensive testimony that adequate housing for persons with special needs—particularly elderly persons, persons with disabilities, homeless persons and large, single-parent families—must be "supportive housing," which combines a properly designed building and a package of supportive services that residents need to live with independence. Some persons may need health care, nutrition services or housekeeping assistance; others may need day care, training or employment services. The Committee intends that HUD policy shall actively encourage the provision of supportive housing for persons who need it.

The Committee bill would revamp the Public Housing, Section 8 rental assistance and Section 202 Housing for the Elderly or Handicapped programs to give strong emphasis to supportive housing. "Project Retrofit" would reconstruct elderly housing to accommodate services. "HOPE for Elderly Independence" would provide vouchers for scattered-site support services. "Project Independence" would reconstruct public housing to accommodate job and education services. "Operation Bootstrap" would demonstrate ways to make employment services available to voucher holders. In each case, HUD would support changes in housing design and staffing to accommodate supportive services, and the housing sponsor or locality would be required to provide long-term funding for appropriate supportive services from other sources.

10. *The preservation of existing low-income housing.*—The Committee recognizes that two major factors now threaten the continued operation of the older subsidized inventory as low-income housing: (1) potential conversion to market-rate housing through mortgage prepayments and other methods of terminating low-income affordability restrictions; and (2) significant deterioration and potential default through lack of effective HUD oversight as well as a absence of sufficient project income and federal subsidies.

The Emergency Low-income Housing Preservation Act (ELIPHA), enacted as Title II of the Housing and Community Development Act of 1987) provided a temporary, interim solution to the conversion problem that was designed to give Congress the "breathing room" to consider research and recommendations then being developed by several public and private sector task forces.

The Committee bill would provide a permanent solution to the prepayment problem. It builds upon the preservation initative contained in the Administration's HOPE proposal and a consensus that is emerging from the extensive work done during the past three years. The bill would place prime emphasis on the need to retain the low-income character of the "at-risk" housing for its remaining useful life. Owners would be compensated either for continuing to maintain the housing for low-income tenants or for tranferring it to qualified organizations, including tenant organizations.

The Committee bill would respond to the problem of deteriorating conditions in some assisted housing by increasing authorization levels for the Flexible Subsidy Fund—HUD's primary tool for financing capital improvements in the older subisidized inventory.

*A balanced national strategy for affordable housing.*—For these reasons, the Committee bill provides a comprehensive framework for federal support of affordable housing. The Committee intends to provide a *balanced* national policy: one that improves tenant-based rental assistance but also expands the supply of affordable housing; one that emphasizes rehabilitation of existing housing but also supports construction and acquisition where appropriate; one that targets resources on the most needy but also recognizes the need to make decent housing more affordable to working families and first-time homebuyers.

## SUMMARY OF THE LEGISLATION

### STATE AND LOCAL HOUSING STRATEGIES

The bill would bring State and local government into a new housing investment partnership with the Federal Government and the private sector to provide more affordable housing.

States and localities receiving HUD aid would develop 5-year housing strategies—action plans that assess housing needs and set forth how each jurisdiction will make housing more affordable by: using its own resources, improving its own policies, leveraging private investment, and investing federal assistance.

Housing strategies would replace several less useful plans required under current law, such as CD Block Grant Housing Assistance Plans and McKinney Act Corporation Homeownership Assistance Plans.

HUD would closely monitor the use of federal assistance.

### HOMEOWNERSHIP

The bill would continue, through the end of fiscal year 1992, the $124,785 ceiling on mortgages that can be insured by FHA.

### INVESTMENT IN AFFORDABLE HOUSING

HUD would provide "one-stop shop" helping States and localities tailor their housing strategies to local conditions and achieve their housing goals through strong partnerships with non-profit organizations and private industry.

In cooperation with governments and the private sector, HUD would continually develop and refine a selection of model programs that incorporate the most effective methods for providing affordable housing. If would stimulate innovation and help introduce the best methods more quickly across the country as appropriate. Model programs could be adapted to meet local needs.

HUD would provide assistance in two ways:

*Housing Opportunity Partnerships (HOP).*—The HOP program promotes partnerships for affordable housing among State and local government, private industry and nonprofit organizations.

HOP allocates funds partly by formula (80%) and partly by national competition (20%) among participating States and localities (40/60).

The program requires a 25% match from States or localities. The match would include cash contributions, administrative costs up to 7% of the HOP funds, forgone fees or taxes, or contributions of land or infrastructure. Contributions could be counted toward the match if they go to affordable housing or to a project that has not less than 50% of units qualifying as affordable housing. This provision is designed to permit State and local matching funds to be used to provide mixed-income housing.

HOP requires low-income and moderate-income targeting. A jurisdiction would have to apply 50% of its HOP funds to units occupied by very-low-income families, and 80% of its HOP funds to units occupied by low income families. All HOP funds would have to be used for units that qualify as affordable housing.

Rental projects assisted with HOP funds would have to have not less than 20% of its units occupied by very low-income families who are paying 30% of their income toward rent. Rents on the affordable units could not exceed the existing fair market rent, making all HOP assisted units available to holders of vouchers or other federal rental assistance. Mixed-income housing would be encouraged. Housing for homeownership would have to meet income and other targeting requirements similar to those Congress adopted for Nehemiah Housing Opportunity Grants.

A revolving housing investment trust fund would be established for each participating jurisdiction, with a line of credit that the jurisdiction can draw down for investment in affordable housing. Any repayments would return to the jurisdiction's trust fund for its reuse in eligible activities.

*Capacity Development.*—The bill helps develop local capacity to finance and produce affordable housing, encourage benevolent lending, and establish community development banks by contracting with experienced organizations. Such agreements may be to provide training and other support services.

## THE HOPE PROGRAM

HOPE grants would transfer ownership of federally assisted or owned housing to low-income families in three ways.

(1) *Public and Indian Housing Homeownership.*—Grants would be made through competition to resident management corporations, resident councils, cooperatives, nonprofit organizations, and PHAs and Indian Housing Authorities. Funds would enable tenant organizations to purchase their projects.

(2) *HUD Multifamily Homeownership.*—Grants would be made to help residents in FHA distressed and foreclosed multifamily buildings to purchase and maintain their properties.

(3) *Homeownership through Nonprofit Organizations.*—Grants would be used to enable low-income families to become owners of properties held by Federal, State, and local public agencies.

States, localities, or nonprofits would provide $1 for every $4 in HOPE funds. Vouchers and other forms of housing assistance would facilitate the ownership. Grants will be used for acquisition, rehabilitation, technical assistance, counseling, and operating subsidies and replacement reserves.

### AFFORDABLE RENTAL HOUSING

The bill would make rental housing more affordable by focusing HUD attention on the need to preserve the nation's affordable housing and by improving federal rental assistance.

*Preservation.*—The bill contains a permanent solution to preserve those older subsidized projects threatened with conversion to market rate housing through mortgage prepayments. Owners would have three options:

(1) *Extend the low-income use of the housing.*—HUD would offer incentives providing an 8 percent return on an owner's equity in the housing.

(2) *Transfer the housing to a qualified purchaser.*—For owners seeking to transfer the housing, HUD would require that residents, nonprofits and public agencies be given first opportunity to acquire the housing. Once a reasonable period of time passes, the owner could sell the housing to any qualified purchaser, i.e., any entity that agrees to extend the low-income use of the housing for the remaining life of the property.

HUD would give qualified purchasers subsidies sufficient to: (a) acquire the housing; (b) rehabilitate the housing; and (c) establish sufficient operating and replacement reserves.

(3) *Terminate the low-income affordability restrictions of the housing through prepayment.*—For owners who seek to prepay and terminate the low-income affordability restrictions, HUD could approve the plan of action upon finding that it would neither (A) create economic hardship for current tenants or displace them where comparable affordable housing is not readily available; nor (B) harm availability of low-income housing, lessen ability of low-income families to find housing near jobs, or reduce housing opportunities for minorities.

*Rental Assistance.*—The bill would reduce the overlap between the voucher and existing certificate programs. Vouchers would be made the primary vehicle for tenant-based rental assistance. Rental certificates would be made the primary vehicle for project-based assistance, particularly in conjunction with affordable housing developed under the HOP program.

The bill would also address the major deficiencies that have undermined the efficacy of the voucher and certificate programs: (1) the failure of the voucher program to ensure affordability for a large portion of voucher recipients; and (2) the failure of the certificate program to give recipients access to an adequate portion of local housing markets. For example, the bill would allow HUD to approve local refinements to the nationally established fair market rents to reflect actual differences in rents paid throughout a housing market.

*Operation Bootstrap.*—The bill would create a demonstration program to require PHAs to ensure that 5,000 voucher holders get supportive services. GAO would be required to study the administrative feasibility of tying assistance to participation in economic self-sufficiency programs.

## SUPPORTIVE HOUSING

The bill would help persons with special needs live in dignity and independence: elderly persons with disabilities, and homeless persons. It would expand "supportive housing"—housing that combines both a properly designed building and services tailored to the needs of tenants.

*Elderly Persons.*—Section 202 housing assistance would be continued with a new funding system that requires much less budget authority per unit.

Elderly housing would be designed to (1) meet the special physical needs of elderly and frail elderly persons and (2) accommodate supportive services needed by elderly and frail elderly persons.

Funding would be provided through a combination of interest-free advances and project rental assistance. Development costs would be based on local construction costs rather than on "fair market rents", which have created serious delays in the current program. Sponsors of units currently in the pipeline could take advantge of the program changes to expedite construction. Special authority would be provided to clear the pipeline of incompleted projects in high cost areas.

"Project Retrofit" would upgrade existing elderly housing, making new forms of HUD assistance available only when a project receives assurance that long-term funding for supportive services will be provided by State, local or other sources.

"HOPE for Elderly Independence" would create a demonstration program to provide service-supported housing for the frail elderly. Selected PHAs will receive funding for up to 40% of the total cost of support services linked wtih 5 year housing vouchers.

*Persons with Disabilities.*—Housing for persons with disabilities would be assisted with a separate program patterned after the program for elderly housing. This initiative would concentrate on helping persons with disabilities integrate into their communities. The new housing program for persons with disabilities will focus on production, rehabilitation and acquisition of small group and independent living homes for persons with disabilities.

*Housing Persons.*—The bill streamlines the distributions of McKinney homeless funding to States and localities. Grantees could better determine how best to allocate resources among approved activities: homelessness prevention, emergency shelter, transitional housing, permanent housing for handicapped homeless persons, assistance to help homeless persons make the transition to permanent housing, and other activities developed in cooperation with states and local government.

The bill continues the Section 8 Single Room Occupancy (SRO) program as a separate program for the homeless administered by the federal government.

The bill adopts the Administration's Shelter Plus Care program which combines rental assistance and supportive services for homeless persons with disabilities.

## PUBLIC AND INDIAN HOUSING

The bill would improve public housing, expanding the provision of services within public housing, strengthening public housing management and expanding Indian housing assistance.

The bill reauthorizes the two key elements of support for public housing: CIAP modernization and Operating Subsidies. The bill expands CIAP through consolidation of the "major reconstruction" (MROP) component of public hearing development directed towards the revitalization of the most severely distressed projects.

A new "Project Independence" and would help public housing residents gain greater access to employment, day care, educational and other services needed for economic opportunity.

Project Independence would operate on an incentive basis, providing new forms of HUD assistance only when a project receives assurance that long-term funding for supportive services will be provided by State, local or other sources.

The bill would direct HUD to establish performance indicators to measure which agencies are experiencing serious management problems. HUD would then be directed to set targets for improved performance of these agencies. If these targets are not met, the Secretary could either compel the agencies to contract out for private management or seek receivership in the courts.

The bill would create a Public Housing Advisory Board to advise HUD on the general policies affecting the operation and management of public housing.

The bill reauthorizes funding for resident management technical assistance and training.

## RURAL HOUSING

The bill strengthens Farmers Home assistance by authorizing increased funding for rural housing, making some mortgages more flexible, allocating assistance to underserved areas and helping certain non-profit organizations prepare housing plans.

The bill reauthorizes Farmers Home programs and permits Farmers Home to help very-low income homeowners with deferred-payment mortgages under certain conditions.

The bill provides a set aside of Farmers Home loans for "targeted underserved areas"—communities that have a high concentration of poverty and substandard housing and that have not received their share of Farmers Home assistance.

The bill authorizes project preparation grants to help nonprofits in underserved rural areas prepare applications for Farmers Home housing assistance.

## COMMUNITY DEVELOPMENT

The bill reauthorizes the Community Development Block Grant program in its current form through fiscal year 1993.

The bill allows block grant funds to be used for technical assistance to public and private nonprofit organizations for neighborhood revitalization and economic development.

| PROGRAM | COMMITTEE PRINT | | | | | | DIFFERENCE FROM BASELINE | | |
|---|---|---|---|---|---|---|---|---|---|
| | FISCAL YEAR 1991 | | FISCAL YEAR 1992 | | FISCAL YEAR 1993 | | FY 91 | FY92 | FY93 |
| | UNITS | BA | UNITS | BA | UNITS | BA | | | |
| HOP Investment | 118,500 | 1,975,000 | 148,500 | 2,475,000 | 178,500 | 2,975,000 | 1,975,000 | 2,475,000 | 2,975,000 |
| Technical Assistance | | 25,000 | | 25,000 | | 25,000 | 25,000 | 25,000 | 25,000 |
| HOPE Grants: | | | | | | | | | |
| 1. Public Hsg Sales | | 50,000 | | 75,000 | | 100,000 | 50,000 | 75,000 | 100,000 |
| 2. Distressed Hsg Sales | | 25,000 | | 35,000 | | 45,000 | 25,000 | 35,000 | 45,000 |
| 3. Non-profits | | 25,000 | | 35,000 | | 45,000 | 25,000 | 35,000 | 45,000 |
| Rental Assistance: | | | | | | | | | |
| Vouchers | 38,000 | 1,128,600 | 38,000 | 1,173,744 | 38,000 | 1,220,694 | 448,033 | 465,954 | 484,592 |
| Certificates | 38,000 | 1,185,600 | 38,000 | 1,233,024 | 38,000 | 1,282,345 | 189,594 | 197,178 | 205,065 |
| Housing Preservation: * | | | | | | | | | |
| Property Disposition | 3,100 | 324,570 | 3,157 | 343,759 | 3,157 | 357,510 | 2,566 | 8,875 | 9,230 |
| Loan Management | 6,000 | 149,400 | 6,000 | 155,376 | 6,000 | 161,591 | 4,918 | 5,115 | 5,319 |
| Public Hsg Replacement | 2,500 | 108,750 | 2,500 | 113,100 | 2,500 | 117,624 | 60,932 | 63,369 | 65,904 |
| Prepayment/OptOuts | 12,500 | 412,500 | 25,000 | 858,000 | 25,000 | 892,320 | 191,536 | 628,197 | 653,325 |
| Flexible Subsidy Fund | | 50,000 | | 52,000 | | 54,080 | 50,000 | 52,000 | 54,080 |
| Elderly Housing: | | | | | | | | | |
| Capital Advances\Loans | | 628,000 | | 659,000 | | 685,360 | 305,875 | 324,200 | 338,860 |
| Rental Assistance | 10,500 | 346,000 | 10,500 | 363,000 | 10,500 | 377,520 | (543,937) | (562,534) | (585,036) |
| Project Retrofit | | 50,000 | | 52,000 | | 54,080 | 50,000 | 52,000 | 54,080 |
| Elderly Independence | | 10,000 | | 0 | | 0 | 10,000 | 0 | 0 |
| Disabilities Housing: | | | | | | | | | |
| Capital Advances\Loans | | 258,000 | | 271,000 | | 281,840 | 150,625 | 159,400 | 166,340 |
| Rental Assistance | 4,500 | 234,000 | 4,500 | 246,000 | 4,500 | 255,840 | (92,247) | (93,297) | (97,029) |
| Homeless Assistance: | | | | | | | | | |
| McKinney Grants | | 220,000 | | 228,800 | | 237,952 | 700 | 700 | 752 |
| SROs | 2,044 | 78,694 | 2,044 | 81,842 | 2,044 | 85,115 | 2,582 | 2,656 | 2,782 |
| Shelter Plus Care | | 246,206 | | 258,639 | | 268,117 | 246,206 | 258,639 | 268,117 |
| Public Housing: | | | | | | | | | |
| Operating Costs | | 1,865,000 | | 1,940,100 | | 2,017,200 | 200 | 0 | 0 |
| Modernization | | 2,217,000 | | 2,306,000 | | 2,398,400 | 162,423 | 169,240 | 175,900 |
| Indian Hsg Construction | 2,300 | 179,170 | 2,300 | 186,337 | 2,300 | 193,790 | 43,922 | 45,679 | 47,506 |
| Drug Elimination Grants | | 150,000 | | 156,000 | | 162,240 | 99,655 | 103,600 | 105,640 |

| PROGRAM | COMMITTEE PRINT | | | | | | DIFFERENCE FROM BASELINE | | |
|---|---|---|---|---|---|---|---|---|---|
| | FISCAL YEAR 1991 | | FISCAL YEAR 1992 | | FISCAL YEAR 1993 | | FY 91 | FY92 | FY93 |
| | UNITS | BA | UNITS | BA | UNITS | BA | | | |
| Rural Housing: | | | | | | | | | |
| Rental Assistance | | 395,000 | | 410,800 | | 427,232 | 85,940 | 89,560 | 93,212 |
| Grant Programs | | 90,000 | | 93,600 | | 97,344 | 36,299 | 37,730 | 39,252 |
| Loan Authority | | 2,160,000 | | 2,246,400 | | 2,336,256 | 178,050 | 186,300 | 194,226 |
| CD Block Grants | | 3,031,700 | | 3,154,100 | | 3,279,400 | 0 | 0 | 0 |
| Neighborhood Reinvestment | | 28,000 | | 28,000 | | 28,000 | 0 | (1,000) | (2,247) |
| Fair Housing Initiatives | | 6,000 | | 6,258 | | 6,527 | 0 | 0 | 0 |
| Research & Development | | 21,200 | | 22,100 | | 23,000 | 0 | 0 | 0 |
| | | | | | | | | | |
| Programs for Consolidation: | | | | | | | | | |
| Urban Homesteading | | 0 | | 0 | | 0 | (13,500) | (14,100) | (14,600) |
| Nehemiah Grants | | 0 | | 0 | | 0 | (25,200) | (26,200) | (27,200) |
| Homeownership Counseling | | 0 | | 0 | | 0 | (3,600) | (3,700) | (3,900) |
| Rental Rehabilitation | | 0 | | 0 | | 0 | (133,100) | (138,500) | (144,000) |
| Sec 312 Loan Program | | 0 | | 0 | | 0 | 0 | 0 | 0 |
| Moderate Rehabilitation | | 0 | | 0 | | 0 | 0 | 0 | 0 |
| Congregate Hsg. Services | | 0 | | 0 | | 0 | (6,100) | (6,300) | (6,600) |
| Sec 5(h) Public Hsg Sales | | 0 | | 0 | | 0 | 0 | 0 | 0 |
| Sec 21 Public Hsg Sales | | 0 | | 0 | | 0 | 0 | 0 | 0 |
| Public Hsg Construction | | 0 | | 0 | | 0 | (460,875) | (479,310) | (498,482) |
| TOTAL BUDGET AUTHORITY | | 17,673,390 | | 19,283,979 | | 20,491,378 | 3,141,497 | 4,170,451 | 4,775,090 |
| NEW UNITS (Less Preservation) | 213,844 | | 243,844 | | 273,844 | | | | |

* Units listed under Preservation are not included as new units

## HIGHLIGHTS OF SENATE-REPORTED BILL

### HOUSING STRATEGIES—SECTION 105

Each State or localtity receiving HUD assistance (housing or CDBG) would have to develop at 5-year comprehensive housing affordability strategy, updated annually. It replaces other, less useful plans required now.

Working plan: Housing strategies would be working plans for bringing together state, local, federal, and private resources to achieve housing objectives. Each would be tailored to specific local conditions. Federal funds would have to be used to carry out the strategy.

Local dialogue: A housing strategy would spark important local debate about what can be done to make housing more affordable. Each strategy would be developed with public hearings, involving all relevant organizations—public and private. States and localities would be required to coordiante their housing support.

Contents: Each strategy would:

*Take a careful look at local conditions.*—It would assess housing needs, looking ahead for the next 5 years—the needs of low-income people, the elderly, large families, rural housing needs and others. It would describe special characteristics that affect how housing assistance needs to be designed.

*Address homelessness.*—It would assess the nature of homelessness, setting out a strategy for helping families avoid homelessness and helping homeless people find decent housing.

*Describe the impact of State and local policies.*—It would explain how State and local policies affect the cost of housing—land use controls, growth limits, fees, taxes and so forth. It would set out a strategy for easing the negative effects. HUD would recommend ways to remove affordable housing "barriers."

*Place federal assistance in a larger context.*—It would require the State or locality to describe (1) how it will use federal funds and (2) how it will mobilize its own resources and private investment. It would set out a specific plan to ensure that funds are used in compliance with law.

### HOMEOWNERSHIP—TITLE II

Development of the National Affordable Housing Act emphasized the need to expand homeownership opportunities, particularly for first-time home buyers. Committee attention focused on regaining long-term financial strength for the FHA mutual mortgage insurance fund and making FHA mortgage insurance available more equitable throughout the country.

Several Committee measures to strengthen FHA were separated last year and enacted as part of the HUD Reform Act of 1989 (P.L. 101-235).

Original intent: Provisions in earlier drafts of Title II would have:

> Authorized "Homeownership Opportunity Zones" to encourage homeownership in urban neighborhoods and rural areas that have high concentrations of low-income and moderate-income families;

Established special underwriting standards for first-time home buyers who complete an approved program of savings for a downpayment;

Permitted HUD to insure adjustable rate mortgages that have general acceptance in the market and include features to reduce risk; and

Strengthened FHA with a package of adjustments to mortgage ceilings, minimum downpayments and other requirements.

The Committee expected to receive the results of a major Price-Waterhouse study of FHA prior to markup of S. 566. Release of that study was delayed, and the Committee decided to put aside provisions altering FHA until the study and HUD recommendations are available.

Provisions included: The Committee-report bill includes:

A 2-year extension of the current FHA mortgage ceiling of $124,785;

A requirement that HUD provide for delegated processing and full insurance of multifamily mortgages within 50 days of enactment; and

A Graham amendment to reauthorize the reverse equity mortgage demonstration and expand it to 25,000 mortgages.

### HOP INVESTMENT PARTNERSHIP—TITLE III

Housing Opportunity Partnerships (HOP) would support state and local strategies to expand the supply of affordable housing. HOP would leverage limited federal funds to mobilize larger investment in affordable housing.

Long-term Partnership: Imaginative housing partnerships have grown in recent years among States, localities, non-profits, and private managers and investors. HOP would build their achievements into a sustained, nationwide effort to provide the affordable housing that American families will need over years to come. HOP provides indispensable federal participation in that partnership.

One-stop: To expand the supply of affordable housing, several types of federal assistance have to be provided in close coordination:

Capital subsidies to reduce costs;

Credit enhancements such as mortgage insurance and other methods to attract private financing;

Rental assistance for low-income families such as vouchers or certificates;

Technical assistance to get the best methods adopted nationwide;

Experience with the private housing investment and development sectors; and

Ongoing effort to make sure the housing is well managed and affordable for decades to come.

HOP is designed to provide each of the needed forms of support to state and local housing strategies on a one-stop basis, rather than whipsawing states an localities among several different HUD bureaucracies—each with its own priorities and a different degree of commitment to helping state and local housing strategies succeed.

Uses: HOP funds could be invested to provide rental or homeownership housing for low-income and moderate-income families. Preference would be given to rehabilitation of substandard housing, but funds could also be used to construct new units, where that is the most efficient way to expand the supply. Suitable housing could be acquired—typically where housing markets are weak.

Investment: HOP funds could be invested as equity, loans, interest subsidies, or other forms of assistance. All HOP funds would go to provide affordable housing—none for administrative overhead.

50% for very-low income families,

80% for low-income families (including very low-income),

20% could help moderate-income families become homeowners.

Model Programs: HUD would work continually with states, localities and the private sector to develop and refine a "shelf" of model programs. Model programs would be designed for different housing objectives and could be adapted to differing local circumstances. They would encourage program efficiency, economies of scale, and effective use of public resources. Specific authorization for several model programs is included:

A program patterned after the rental rehabilitation program;

A program for rehabilitation loans; and,

Under a Graham amendment, a program of sweat equity.

Mixed-income housing: HOP moves away from large-scale projects in which the poor are segregated and concentrated. HOP funds would assist only affordable housing units—but that housing could be in a project where some units rent for higher amounts. If a unit is assisted under HOP it would have to rent for the fair market rent or less—so HOP would expand the supply of housing available to families receiving rental assistance. At least 20% of the affordable units would have to be occupied by very low-income families. States and localities would have incentives to exceed that minimum.

Rehabilitation/production: The Committee-reported bill provides that preference should be given to rehabilitation of substandard housing, except where that is not the most cost-effective way to provide affordable housing. The Committee adopted a Graham amendment to eliminate additional constraints on the ability of a state or local government to use HOP funds for new construction. The Committee recognized that new construction of affordable housing is often vital in growing communities and as part of a broader strategy to rehabilitate urban neighborhoods.

Homeownership: Some HOP funds could be used to expand homeownership for low- and moderate-income first-time homebuyers. Requirements would be like the "Nehemiah Program." Homes could be resold only to low-income and moderate-income families—to avoid windfall gains and to pass on the benefits to others.

Fund allocation. To participate, a State or local government would have to develop a 5-year housing strategy—approved by HUD. Funds would be distributed as follows:

40% to States, and

60% to local governments;

80% by formula that takes account of need, and

20% by "incentive allocation" that takes account of outstanding performance or special need.

Funds would be distributed only in amounts that could support significant programs: not less than $2 million for localities, not less than $3 million for a State. Each State would get the equivalent of at least one participating locality.

Match: Each State or locality would have to match each $4 of HOP funds with $1 from their own resources. Private sector leverage would also be required.

Trust funds: HOP funds would go into a separate account for each participating State or locality. Repayments into these revolving "housing investment trust funds" could be reused in compliance with HOP restrictions.

Nonprofit set-aside: Each State or localty would have to reserve 10% of its HOP funds for 18 months for investment through nonprofit housing organizations. The set-aside would rise to 15% after 3 years.

Monitoring: The use of HOP funds would be closely monitored with on-site evaluation by HUD and annual audits. All decision-making would have to be conducted in sunlight, and stiff penalties would be provided for abuse.

Credit enhancement: A special commission would conduct a study of alternative ways in which financing could be efficiently provided for affordable housing. The study would consider ways in which the resources of existing institutions—such as Fannie Mae, Freddie Mac, and private financial institutions—could be used to provide mortgage financing for low-income housing more efficiently.

## CAPACITY DEVELOPMENT—SUBTITLE III–C

HUD would expand a nationwide network that provides more affordable housing by mobilizing available resources and using them more efficiently. Federal assistance would be an important catalyst unleashing much larger activity.

Priorities: Capacity development funds could be used to:

Exchange information among States and localities about the most cost-effective ways to solve housing problems—information on program design, finance, codes;

Help less experienced States and local governments develop the capacity to design and carry out appropriate housing strategies;

Enhance the ability of nonprofits to produce and manage affordable housing; and

Help build public-private partnerships, conduct research and encourage the development of new ways to attract private financing for affordable housing.

Contracts: HUD would achieve these goals through contract with established, proven organizations. Contracts could be for no more than 3 years and could not account for more than 20% of an organization's operating budget. Eligible organizations would be:

State or local agencies,

national or regional public purpose organizations, and established nonprofit "intermediary" organizations.

Matching: Nonprofit housing organizations could get advances to help them pay the up-front costs of preparing a sound project application: market and financial feasibility studies, preliminary design and engineering work, legal and other professional services. The organization would have to provide 50% of those costs from other sources. Any advances would be taken out of the project financing if the project is approved.

## HOPE GRANTS—TITLE IV

The Committee-reported bill includes essentially all of the Administration's proposals for HOPE Grants to transfer ownership of public, assisted or HUD-owned housing to low-income families.

Three programs: The Administration proposed new grants for the following purposes:

*Public and Indian Housing Homeownership.*—Grants would be made through competition to resident management corporations, resident councils, cooperatives, nonprofit organizations, and PHAs and Indian Housing Authorities. Funds could enable tenant organizations to own their projects.

*HUD Multifamily Homeownership.*—Grants would be made to help residents in FHA distressed and foreclosed multifamily buildings to purchase and maintain their properties.

*Homeownership through Nonprofit Organizations.*—Grants would be used to enable low-income families to become owners of properties held by Federal, State, and local public agencies.

States, localities, or nonprofits would provide $1 for every $3 in HOPE funds. Vouchers and other forms of housing assistance would facilitate the ownership. Grants would be used for acquisition, rehabilitation, technical assistance, counseling, and operating and replacement reserves.

Committee refinements: The following key refinements were made to reflect bipartisan discussions.

State/local role: HOPE activities would be approved only if they are consistent with an approved State or local housing strategy.

Fraud and Abuse: Borrowing on the collateral of public housing sold under HOPE would be limited (1) so tenants would not be saddled with debt burdens they could not carry and (2) so proceeds could be used only to improve the residential quality of the property. GAO would be given access to relevant books and records.

Matching funds: State/local matching requirements would be set at more realistic levels as in the Senate's HOP program and would restrict "double dipping" and "layering" from other federal programs.

Resale restrictions: Housing sold with federal subsidies would have to remain available to low-income families.

Replacement of sold housing: Low-income public housing sold under HOPE would have to be replaced 1:1 in conformance with policy set in the 1987 Housing Act—except that 5-year vouchers provided from a separate replacement account could be counted.

Diversion of vouchers: For 5 years after public housing is sold under HOPE, any gap between project revenues and necessary operating costs would be provided by use of the PHA's operating subsidies rather than by diverting funds from vouchers.

Planning Grants: Funds for planning grants would be appropriated in specific amounts rather than as 15% of total HOPE funds.

Title: Title would not pass to the tenant organization until the property meets quality standards.

### PREPAYMENT—SUBTITLE V-A

The impending loss of hundreds of thousands of federally assisted housing units (under the old 221(d)(3) and 236 programs) is one of the most pressing and controversial housing issues facing the Congress.

The bill would establish a permanent solution to the prepayment problem that places prime emphasis on preserving the low-income character of this housing. The proposal makes refinements to the Administration's HOPE proposal to reflect what appears to be a recently emerging consensus among representatives of States, owners, tenants and other interested parties.

*Background.*—Older HUD programs allow owners to "prepay" their 40-year mortgage after 20 years and end low-income use of the housing. Experts estimate that nearly 250,000 units could be lost through prepayments in the coming 15 years, with most losses occurring from 1991-1995.

The local impact of prepayment can be explosive. Half of the affected tenants are elderly. 70 percent of the tenants have incomes below 50 percent of the relevant area median. They are forced either to pay large rent increases or get out—usually in markets where there are few housing alternatives.

*Temporary Solution provided in 87 Housing Act.*—Congress enacted a temporary solution in the 1987 Housing Act. The Act placed restrictions on prepayments but provided new incentives for owners to keep the housing for low-income tenants.

The 1987 Act attempted to balance the interests and concerns of both owners and tenants. The law recognized that a continuing partnership between all levels of government and the private sector is essential if the nation is to resolve its affordable housing crisis.

The emergency law has been upheld as constitutional by a Federal district court in Illinois. The emergency law expires on September 30, 1990.

### THE NATIONAL AFFORDABLE HOUSING ACT

*Permanent Solution.*—The bill develops a permanent solution to prepayment removing the need for stop gap extensions of the provisions contained in the 1987 Act.

*Preservation Value.*—The bill will set a standard "preservation value" for each property. This should markedly improve upon the system established by the 1987 Housing Act—which did not contain a specific definition of "fair return on investment".

The preservation value would equal the appraised fair market value of the housing as rental housing—less costs that would have been incurred for rehabilitation and conversion to market rate housing. A fair market value that does not take into account such costs would give owners a windfall.

*Owner Options.*—The bill gives owners three options.

1. Stay In. Owners who agree to extend the low-income use of the housing would receive incentives that give them an 8 percent annual return. That will give owners a fair and competitive return on their imputed equity in the housing.

2. Transfer. Owners who agree to transfer the housing to tenants, nonprofits and other qualified purchasers will receive the preservation value. Like HOPE, favored purchasers will be given a "first crack" at the housing. Purchasers will also get additional subsidies to rehabilitate the property and establish operating and replacement reserves.

3. Convert. Owners who wish to prepay and convert the housing to market rentals or condos must demonstrate that such action would neither (a) create economic hardship for or displace current tenants nor (b) harm long-term national objectives.

*Permanent Affordability.*—The 1987 Housing Act has been criticized for only requiring owners to stay in for another 20 years. The bill would seek to preserve the stock for its remaining useful life.

### RENTAL ASSISTANCE—SUBTITLE V-B

The bill would refine the two existing forms of rental assistance—vouchers and certificates. The significant revisions are as follows:

*Affordability.*—The bill would address the failure of vouchers to ensure uniform affordability for tenants. Because voucher holders must pay the difference between Fair Market Rents and higher actual rents, almost half are paying more than 30 percent of their income for rent. An incredible 25 percent have rent burdens greater than 40 percent of income. The problem has been especially acute in tight rental markets. (Abt Study, 1988)

The bill would address the affordability issue in two ways:

*Reporting.*—The bill would require PHAs to obtain information on the excessive rent burdens that voucher holders are enduring. If, in a given year, more than 10 percent of voucher holders in a jurisdiction are paying more than 30 percent of their income for rent, the PHA would need to submit a report to HUD.

*Reasonableness of Rents.*—The bill requires that PHAs ensure the reasonableness of rents charged for units. Media reports have found that some landlords are charging voucher tenants higher rents than certificate tenants occupying similar units in the same building. (Wash. Post, 3/18/89)

*Tenant Choice.*—The bill would amend the certificate program to give families greater ability to "shop around" and find housing in neighborhoods of their choice—where they can find better schools and be located close to good jobs.

The bill recognizes—as the voucher program does—that, in some situations, a tenant may want to rent an apartment that is above the fair market rent and pay a higher share of income for rent. The bill would allow tenants to do so where the PHA finds that the rent charged and the family's rental payments are reasonable.

*Accessibility.*—The bill also recognizes that inadequate fair market rents have often presented a barrier to tenants finding a decent apartment. HUD's current method for establishing FMRs often does not pick up variations between submarkets in a jurisdiction. For example, the setting of area-wide FMRs for PHAs which cover large jurisdictions often excludes whole counties from participation in the program.

The bill would thus allow HUD to approve local refinements to the nationally established fair market rents rents to reflect actual differences in rents paid throughout a housing market.

*Flexilbility.*—The bill would waive the 15% limitation on attaching rental certificates to units ("project-based assistance"). Certificates could thus be used with other subsidies—including the HOP program—to permit the acquisition, rehabilitation and construction of housing that is affordable to very low-income families.

Vouchers would remain as the primary source of tenant-based rental assitance.

*Distribution.*—A new distribution system would be established for certificates. States and localities participating in the HOP would make recommendations to HUD on the allocation of rental credits. HUD would be required to distribute certificates in a way that helps states and localities carry out their housing strategies.

*Tools for States and localities.*—This change in the distribution procedrue will give states and localities all the tools—capital subsidies, rental assistance and technical assistance—needed to carry out effective housing strategies.

### OPERATION BOOTSTRAP—SUBTITLE V-C

The bill would include as a demonstration program the Administration's proposal requiring PHA's to link vouchers and supportive services. GAO would be required to study the administrative feasibility of a mandatory, nationwide linkage of rental assitance to participation in economic self-sufficiency programs.

### SUPPORTIVE HOUSING—TITLE VI

Supportive Housing: The bill would embrace the notion of Supportive Housing for persons with special needs—elderly persons, persons with disabilities, the homeless.

For these persons, housing must be more than bricks and mortar; it must be housing that is designed to meet the physial needs of such persons and accommodate a range of supportive services.

HUD Hostility: HUD's record in this area over the past eight years has been abysmal. The Section 202 program was cut more than half. HUD's regulations on new production became so restrictive that an estimated 50,000 units were stuck in the pipeline.

*Examples.* HUD bureaucrats habitually examined the most minute and trivial aspects of project planning and construction. HUD regulations also made projects unworkable by disallowing necessities (elevators in elderly projects, sufficient space to accommodate services) and by setting the fair market rents (which control the development cost) far too low.

### HOUSING FOR THE ELDERLY—SUBTITLE VI-A

HUD would be geared to provide the elderly with "Supportive Housing"—housing that combines a specially designed building with a range of supportive services that elederly people need to live with independence and dignity.

Improving Section 202 Housing: The bill reverse eight long years of HUD efforts to end the successful 202 elderly housing program through budget cutbacks and heavy-handed bureaucratic interference. The program would be significantly improved in a number of ways.

*Funding Mechanism.*—Funding would henceforth be provided through a combination of interest-free advances and project rental assistance—a change that would greatly reduce the required budget authority.

*End Fair Market Rent Limit.*—Development would be based on local construction costs rather than on "fair market rents"—this would elimiate the cause for many delays. Units in the pipeline could take advantage of the program changes to expedite construction.

*Design for Elderly Persons.*—Housing would be designed to meet the special physical needs of elderly persons and accommodate the provision of supportive services like congregate dining, health-related services, etc.

*Income Targeting.*—The program would continue to be targeted to very low-income families. But sponsors could make the 202 project a portion of larger mixed-income development.

*Sponsor Flexibility.*—During the Pierce regime, HUD bureaucrats got involved in every minute aspect of project planning and construction. The bill would give sponsors greater freedom to make project decisions as well as clear incentives to contain costs.

*Increased Authorization.*—The bill would authorize the construction and rehabilitation of 10,500 new units. This is an increase of 4,000 units over current funding.

*Pipeline Projects.*—A D'Amato amendment would permit the Secretary to increase cost guidlines and fair market rent to the degree necessary to accelerate clearance of the Section 202 pipeline—so long as cost containment requirements are met.

Project Retrofit: A rent HUD study estimates that 105,000 elderly residents of assisted housing are at risk of institutionalization—they need supportive services to remain in place. The bill establishes a new program, "Project Retrofit", to enable these persons to continue to live with dignity and independence in assisted housing.

Housing and service providers would have to work together at the local level.

HUD funding would be made available only when there are assurances that supportive services will be provided by states, localities or other sources.

HUD funding would be made available for:

Converting apartments to accommodate the physical needs to the frail elderly;

Creating or rehabilitating congregate space to accommodate supportive services; and

Management personnel to coordianate services mobilize additional public and private resources.

Experts believe that Project Retrofit offers an important model for how federal housing and service dollars can be combined and leveraged to develop supportive housing.

Independence for Elderly Americans: The bill would include the Administration's proposed demonstration program to provide service supported housing for frail elderly persons. The services would be provided in scattered-site housing. Selected PHA's would receive funding for up 40% of the total cost of support services linked with 5-year vouchers.

### PERSONS WITH DISABILITIES—SUBTITLE VI-B

HUD would be geared to provide persons with disabilities with "supportive housing"—housing that combines a specially designed building with a range of supportive services needed by persons with disabilities.

Separate program: The bill would provide a separate housing production program for persons with disabilities. This program would be designed for the needs of persons with disabilities, which can be quite different from the needs of elderly persons.

*Funding Mechanism.*—Funding would be provided through a combination of interest-free advances and project rental assistance—this greatly reduces the required budget authority.

*Design Characteristics.*—Housing would conform to the design characteristics of the neighborhood in which it is located. Emphasis would be placed on acquisition and rehabilitation of small group and independent living homes.

*Service Requirement.*—Housing must provide supportive services that are based on the individual needs of residents.

*Income Targeting.*—The program would be targeted to very low-income families.

*Sponsor Flexibility.*—During the Pierce regime, HUD bureacrats got involved in every minute aspect of project planning and construction. The bill would give sponsors greater freedom to make project decisions as well as clear incentives to contain costs.

*Increased Authorization.*—The bill would authorizie the constuction and rehabilitation of 4,500 new units, more than double the FY 1990 appropriation.

### HOMELESS ASSISTANCE—SUBTITLE VI-C

The bill would streamline the distribution of McKinney funding to States and localities.

Need to overcome past problems: HUD has not administered Mckinney programs well. Regulations have been overly complicated, funding has been slow in coming. Homelessness needs an emergency response—which can only be achived at the State and local level.

The McKinney homeless programs are also to rigid and categorical, each one designed to resolve a special homeless problem whether or not that's the problem which States and localities face.

Consolidate and privide more flexibility: The bill would distribute 80 percent of the funding for consolidated program directly to States and localities that have approved housing strategies.

*Predictable Allocations.*—Funds would be distributed with more predictability through a formula, which takes account of local incidence of homelessness, to give States and localities the ability to carry out comprehensive, multi-year strategies to combat homelessnes.

*Breakdown.*—The formula would distribute 70 percent of this funding to localities, 30 percent to States.

*Flexibility.*—The new distribution would give States and localities the flexibility to determine how best to allocate resources among "approved activities" consisting of:

Helping very low-income families avoid becoming homeless (through payments for rent and utility arrearage);

Meeting the emergency shelter needs of homeless persons;

Providing transitional housing to facilitate the movement of homeless persons and families to independent living;

Providing specialized permanent housing for homeless persons with disabilities who need a supportive living environment;

Heldping very low-income families who are residing in emergency shelter or transitional housing make the transition to permanent housing (through provision of security deposits and one month's rent); and

Other activities developed by HUD in cooperation with States and localities.

Discretionary Funding to Address Unmet Needs: HUD would retain 20 percent of the funding to help States, localtities and nonprofits meet urgent needs of homeless persons that are not being met by available public and private resources. In some communities, the rapid growth in homelessness has simply overwhelmed the resources of government and the private sector.

Strategy to Eliminate Welfare Hotels: HUD would be required to identify the States and localities that use welfare hotels and other unfit shelters as housing for homeless families with children and develop a strategy to eliminated such use by January 1, 1992. The bill would give HUD additional powers and resources to carry out the strategy within the statutory deadline.

Numerous articles and studies have brought national attention to two scandalous conditions: (1) The use of commercial hotels to house homeless families with children at exorbitant rates, and (2) the reliance on barrack-style shelters to house such families in indecent, unsafe and unsanitary conditions.

Section 8 SRO Program: The highly successful Section 8 SRO program will be continued as a separate program. This program provides Section 8 rental assistance to spur to renovation of Single Room Occupancy dwelling, which typically are former hotels with one-room apartments, shared bathrooms and kitchen facilities.

Shelter Plus Care for the Homeless: The bill includes the Adminiustration proposal under which states and localities could combine housing with supportive services for homeless people who are severely mentally ill or alcohol and drug abusers: (1) 5-year flexible rental assistance with up to 2 years of assistance provided in designated buildings and remaining assistance provided in independent living situations; (2) 5-year rental assistance in housing owned or leased by nonprofits under Sec 202; (3) 10-year housing assistance for moderate rehab of SRO's.

### PUBLIC HOUSING—TITLE VII

Public housing is and will continue to be a strong component of national housing policy. Public housing is the oldest federal housing program.

It is home to more than 3.4 million poor Americans whose average income is less than $6,000.

More than 3 of every 5 residents are minority, many with at least two children. More than 75 percent of the households are headed by a single adult. More than half receive welfare.

Preservation: The bill would reaffirm the Nation's commitment to the preservation of the public housing inventory.

The bill would increase authorizations for public housing modernization and operating subsidies. Increased funding for such activities is needed if we are to maintain an effective and sustained attack on the drug problem in public housing.

Management Reform: HUD would be required to establish performance standards for public housing agencies and designate agencies that either meet or fail to meet those standards.

Greater emphasis would be placed on helping troubled agencies resolve their management deficiencies. HUD would also be given the discretion to seek the appointment of a receiver in Federal or State court.

Each public housing agency would also be required to establish and maintain (by January 1, 1993) a system of project-based accounting for rental collections and operating costs. Such accounting systems are fundamental to sound and efficient management.

Public Housing Advisory Board: The bill would strengthen public and Congressional oversight of public housing activities by establishing a 15-member, Public Housing Advisory Board. The Board would advise the Secretary and Assistant Secretary on the formulation of general policies and significant regulations affecting public housing.

Project Independence and Project Retrofit: Two new programs would be established to (1) provide families with children living in public housing with better access to educational and employment opportunities and (2) enable frail elderly persons living in public housing to live with dignity and independence.

Under both programs, HUD would do what it does best: provide funding for renovation and rehabilitation activities. To gain maximum leverage, HUD's funding would be provided only to those public housing authorities that have obtained service commitments from states, localities or other sources.

For Project Independence, the supportive services might include job training or child care or adult education.

For Project Retrofit, the services might include personal care or homemaker assistance or meals.

**Experts believe that the design of these programs offers a model for how federal housing and service dollars can be effectively combined and leveraged to help people help themselves.**

Public Housing Resident Management: The bill would reauthorize funding for resident management technical assistance and training.

Consolidation: The bill would consolidate public housing development into two other programs: 20% would be consolidated into public housing modernization for major reconstruction of distressed projects; and the remainder would be consolidated into HOP.

A Heinz amendment would permit relieve public housing agencies of certain grievance procedures when evicting tenants for drug-related criminal activity. PHA's would also be required to notify the post office to stop delivery of mail at the project for such tenants.

## RURAL HOUSING—TITLE VIII

Rural housing needs would receive much greater attention with enactment of the National Affordable Housing Act.

Increased Authorization: Farmers Home housing program authorizations would rise to $2.65 billion. That's $300 million above FY 1991 CBO baseline. Farmers Home could finance over 52,500 rural housing units, 4,500 more units than last year.

*Past Cuts.*—In 1979, rural housing programs built or rehabilitated 145,000 housing units. Relentless cuts drove that level down to only 48,000 units last year, a 66% reduction.

*Rural Housing Need.*—Over 3 million rural homes (12% of the 26.9 million total) are substandard, lacking plumbing, heat or some other necessity of life.

HOP Program: HOP would direct significant amounts of additional housing assistance to rural areas.

*Fund distribution.*—States would have to distribute funds to rural areas based on objective measures of rural housing need, such as poverty and substandard housing. [Sec 322(b)]

*Small state bonus.*—A State that does not have a city large enough to qualify for direct allocation would have the State's own allocation increased by $1.5 million, making it easier for the State to use more of its basic allocation for housing in rural areas. [Sec 317(b)(2)(B)]

Rental Assistance: States and local jurisdictions would have to take into account the number of people living in rural areas when distributing rental assistance. [Sec 105(b)(1)]

New Initiatives: (1) FmHA offices that haven't used their low-income set-aside could help low-income families buy a home with partially deferred loans. (2) 300 distressed rural areas underserved by FmHA would get a special set-aside. This codifies an successful program currently administered by FmHA.

## GENERAL PROVISIONS

### *Amendments adopted in Committee*

Pressler amendment would provide a minimum share for each state equal to 0.5% of the aggregate funding under certain housing programs.

Roth-Kerry amendment would prevent individuals or families from benefiting from tenant-selection preferences for a period of 5 years if they are evicted from publicly assisted housing for drug-related criminal activity, unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary.

Graham amendment would require HUD to prepare an annual study of its staffing capacity and an action plan for ensuring that the Department has the staff capacity to carry out its mission, including responsibilities under this Act.

Bond amendment would require that each jurisdiction's comprehensive housing strategy shall discuss the quantity, condition and role of public housing.

Bond amendment eliminated charter language for the HOME Corporation, a separately chartered corporation within HUD, which had been proposed as a one-stop organization to administer HOP and other provisions of title III. The amendment would require HOP to be administered through a one-stop office within Housing.

Bond amendment would make modifications to the one-for-one replacement rule for public housing demolitions. A locality would be permitted to provide not less than one replacement unit for every two demolished, if (1) the housing project was at least 35 percent vacant in each of the preceding 5 years, (2) the locality has a vacancy rate of 10 percent and is economically distressed, and (3) the locality holds public hearings on its plans for the site.

Bond amendment would refine the bill's public housing management reforms in several ways. It would change the PHA performance indicators to reflect factors that are more within the PHA's control and would require HUD to submit an annual report to Congress on progress in improving the performance of the most severely troubled PHAs. The amendment would make it clear that HUD has the authority to contract out the management of all or part of the housing that is under the control of a troubled PHA. It also would give HUD the authority to reduce operating subsidies for vacant units when those vacancies are due to the negligence of the PHA. The amendment would set up an advisory commission on public housing to give HUD a chance to take advantage of the expertise in this field.

Heinz amendment requires HUD to study (1) the dollar amounts in the residual receipts account of Sec. 202 and Sec. 8 projects and (2) the uses to which such accounts could be put under existing law.

Mack amendment adds "encourage tenant empowerment and reduce generational poverty in public and assisted housing" to bill objectives.

A bipartisan compromise amendment would consolidate the following programs into HOP:

Urban Homesteading;
Nehemiah Grants;
Homeownership Counseling;
Rental Rehabilitation Grants;
Sec. 312 Rehabilitation Loans;
Moderate Rehabilitation (except for McKinney SRO housing);
Congregate Housing Services, and

Public Housing Development (except for 20% to be folded into CIAP for major reconstruction of distressed projects).

Sec. 5(h) and Sec. 21 authority for public housing sales would be consolidated into HOPE I.

## EXPLANATION OF THE LEGISLATION

### TITLE I—HOUSING STRATEGY

The National Housing Goal: The Committee bill "affirms the national goal that every American family be able to afford a decent home in a suitable environment." The Committee intends to reaffirm the national housing goal first stated in Section 2 of the Housing Act of 1949, but also to recognize that affordability of housing is important to American families, along with the quality of housing and the suitability of our neighborhoods. Housing affordability, Housing quality and neighborhood suitability are therefore identified as central concerns of national housing policy.

Objective of National Housing Policy: The Committee bill specifies objectives that are needed to guide public action in pursuit of the national housing goal. The overriding objective is to strengthen a nationwide housing investment partnership of public and private institutions that is capable of carrying out a sustained effort to provide the affordable housing that American families will need in the upcoming decades. The Committee recognizes that, from now on, the federal government must operate as one among a number of important partners in the effort to make housing more affordable. Other partners must include not only States and local governments, whose policies and resource allocations must be supportive of housing but also private industry and nonprofit organizations, whose resources and skills must also be mobilized more effectively.

The Committee recognizes that this effective partnership does not need to be built from scratch. Future housing policy should build on what works. And must of our country's housing finance and production system works very well. Many elements of a powerful investment partnership were created by past federal housing policy successes. They include the secondary mortgage market institutions, such as Fannie Mae, Freddie Mac and Ginnie Mae. They include State and local government institutions, such as housing finance agencies, community affairs agencies and housing authorities. And they include private mortgage lenders as well as housing developers and management firms. Other elements of the needed housing partnership have emerged during the past decade as States and localities found imaginative ways to fill the vacuum created by the retreat of federal support for housing. The Committee recognizes that the partnership currently is not able effectively to meet the country's most urgent housing needs. It must be strengthened, it must be made nationwide. And each of those objectives depend on the federal leadership that the committee bill would provide.

The mission of this partnership of public and private institutions must be comprehensive, and several objectives are specified to guide public action: (1) to ensure that no resident of the United States is without either access to decent shelter or assistance in avoiding homelessness, (2) to increase the Nation's supply of decent housing that is affordable to low-income and moderate-income families and accessible to job opportunities, (3) to improve housing opportunities for all residents of the United States, particularly members of disadvantaged minorities, on a nondiscriminatory basis, (4) to help make neighborhoods safe and livable, (5) to expand opportunities for homeownership, (6) to provide every American community with reliable, readily available supply of mortgage finance at the lowest possible interest rates, and (7) to encourage tenant empowerment and reduce generational poverty in federally-assisted and public housing by improving the means by which self-sufficiency may be achieved.

Purposes of the National Affordable Housing Act: The Committee bill would provide a comprehensive legislative framework for national housing policy. The purposes of such a framework would be (1) to help families save for a down payment on their first home, (2) to retain wherever feasible the low-income affordability of federally assisted housing, (3) to extend and strengthen partnerships among all levels of government and the private sector, including for-profit firms and nonprofit organizations, in the production and operation of housing that is affordable to low-income and moderate-income families, (4) to expand and improve federal low-income rental assistance, such as vouchers and certificates, and (5) to increase the supply of supportive housing, which combines an appropriately designed building with supportive services that residents—particularly elderly persons, persons with disabilities, homeless persons and low-income families with children—need to live with dignity and independence.

State and Local Housing Strategies: The Committee bill would require States and units of general local government ("jurisdictions") to prepare a comprehensive housing affordability strategy ("housing strategy"), which is to be updated annually and approved by the Secretary, as a precondition to receiving housing or community development assistance from HUD.

Under the Committee bill, each participating jurisdiction would prepare one, action-oriented plan that looks ahead for 5-years and serves as a working guide for each jurisdiction's use of federal and other housing resources. The housing strategy would replace other plans now required in law, such as the Housing Assistance Plan (HAP) required under CDBG and the Comprehensive Homeless Assistance Plan (CHAP) required under the McKinney Homeless Assistance Act. Section 105 of this Act is designed to incorporate the useful elements of the HAPs and CHAPs in the newly required housing strategies. Section 403(a)(1) of the Committee bill makes McKinney Act funding available only to jurisdictions that have a housing strategy approved in accordance with section 105 of the National Affordable Housing Act. Reference to a CHAP would be eliminated. Section 1001 of the Committee bill would amend section 104(c) of the Housing and Community Development Act of 1974 to strike the requirement for HAPs and make CDBG funding available only to jurisdictions that have a housing strategy approved in accordance with section 105 of the National Affordability Housing Act.

Requiring states and local governments to develop effective housing strategies is an essential step in making them part of a new delivery system for low and moderate income housing. The Committee bill would direct the Secretary to provide assistance only to jurisdictions that submit comprehensive housing affordability strategies and annual updates of the strategies which have been approved by the Secretary. The development of the housing affordability strategies is intended to direct the allocation of limited resources to the most effective actions, to coordinate the full array of public and private housing actions toward specified objectives, and to provide a mechanism for public participation and review. Such a coordinated, action-oriented strategy is necessary in order to efficiently address our nation's urgent, multi-dimensional housing situation.

The Committee believes that state and local governments are best suited to assess housing needs and conditions, because housing markets differ so greatly from place to place. The Committee bill therefore would require each jurisdiction to carry out a comprehensive process that assesses local market conditions, dynamics, and barriers to the development of affordable housing.

First, a housing strategy would have to describe the jurisdiction's housing needs for the ensuing 5-year period. The strategy would describe the jurisdiction's need for housing assistance to meet the need for different types of tenure (homeownership, rental etc.) and to respond to changing demographic characteristics of the region (income, family size, age, and other appropriate indicators of special housing needs). The Committee intends that a strategy would include a reasonable commitment by the jurisdiction to ensure that its housig activities are directed toward the needs described in this section of the strategy.

Second, a housing strategy would include a description of the nature and extent of homelessness within the jurisdiction. The strategy would include such information as the jurisdiction's plan to prevent homelessness for very low-income families, the jurisdiction's plan to meet emergency shelter and transitional housing needs and the jurisdiction's plan to help homeless persons make the transition to permanent housing and independent living. The Committee recognizes that the tragedy of homelessness is a multifaceted problem ranging from the lack of affordable housing, to economic distress, to intractable personal burdens of chronic mental illness or drug abuse. The strategy should take account of the characteristics of homelessness within the jurisdiction.

Third, a housing strategy would include a description of the jurisdiction's housing market, including an explanation of low characteristics of the market would affect the use of federal assistance for rental assistance, production of new units, rehabilitation of old units and acquisition of existing units. The Committee intends that such a description would include, where appropriate, an analysis of: any gaps between housing supply and demand, any mismatch between housing cost and ability to pay, any problem with the cost and availability of mortgage loans, overcrowding, physical condition of the existing housing stock and long range forecasts of housing demand by type and price range. The Committee recognizes that the most effective means to address a particular housing need may vary greatly across the country.

The Committee believes the federal government must not shirk its responsibility for leadership in the design of effective housing assistance—national leadership is needed to achieve beneficial standardization and economies of scale, to accelerate nationwide introduction of sophisticated technologies, to facilitate participation by national industries, to take account of the national and international character of the housing finance system, and to achieve more coherence among federal, state and local policies that have an impact on housing affordability, including policies relating to taxation, regulation and spending. Nevertheless, the Committee believes that the selection—and often the design—of specific means to achieve housing goals can be done more effectively at the State and local level. Housing goals, including national housing goals, must be achieved within the special conditions of local housing markets. By requiring states and local governments to develop housing strategies and giving these jurisdictions considerable discretion in implementing those strategies the Committee in no way intends to condone or foster an abdication of federal responsibility for affordable housing. To the contrary, the Committee intends to ensure that national housing goals are most efficiently and effectively achieved within the unavoidable context of differing local housing markets.

Fourth, a housing strategy would contain (1) an explanation of how the costs of housing and the incentives to develop, maintain and rehabilitate affordable housing would be affected by the jurisdiction's public policies and procedures and (2) a description of the jurisdiction's strategy to correct any negative effects of such policies and procedures. The Committee intends that this explanation would include an analysis of obstacles to development, maintenance and improvement of housing for low-income and moderate-income housing which considers, among other things, tax policies, land use and zoning ordinances, building codes, and growth limitations.

The Committee recognizes that some local public policies, such as exclusionary zoning laws, create inappropriate impediments to the balanced availability of affordable housing. The Committee is also aware that some jurisdictions have controversial policies, such as rent control or stabilization, that were promulgated as the only available means to avoid displacement of low-income and moderate-income residents, including many long-established residents who had become elderly and must live on fixed incomes. The Committee is aware that these latter policies differ widely from place to place both in their design and in their impact on incentives to provide more affordable housing. The Committee recognizes that compelling arguments can be made in support of and in opposition to specific local ordinances.

The Committee believes that federal funds should not pay costs created by unnecessary barriers to housing affordability that result from local, state, or federal policies. The Committee intends that the National Affordable Housing Act shall (1) foster a thorough and ongoing review of all public policies affecting the cost of housing and (2) maintain steady pressure encouraging public officials at all levels of government to adopt policies that make housing more affordable. That is why the Committee bill requires an explanation of how state and local policies affect the cost of housing.

The intent of the Committee bill is to give state and local governments more effective tools for achieving housing affordability—not to give HUD new authority to intervene in state and local decisionmaking. That is why the Committee bill does not permit HUD (1) to disapprove a housing strategy because of HUD's disagreement with any policies identified under section 105(b)(4) or (2) to require a change in any such policy as a prerequisite to allocation of assistance under this or another Act. The determination of vital public need would remain within the reasonable discretion of the participating jurisdictions.

Fifth, a housing strategy would include an explanation of the institutional structures—public, private and nonprofit—that would implement the jurisdiction's housing strategy. The strategy would assess the proposed the delivery system and provide solutions to rectify any gaps in it. The Committee intends that, as participating jurisdictions assess the strengths and gaps in the delivery system, reasoanble efforts shall be made to consult with a wide range of public and private institutions as well as local community housing development organziations, nonprofit organizations, and appropriate intermediary organizations to identify capacity building needs.

Sixth, a housing strategy would indicate how funds made available under this Act would leverage additional amounts of public and private resources within the participating jurisdiction. The Committee recognizes that limited federal funds will have to be used cleverly and in conjunction with resources from other sources if the country's housing needs are to be met. The Committee intends that this explanation would specify responsible agencies and funding sources.

Seventh, a strategy would explain how the jurisdiction plans to use funds made available under this Act, the United States Housing Act of 1937, the Housing and Community Development Act of 1974, and the Stuart B. McKinney Homeless Assistance Act. The Committee does not intend that a jurisdiction be required to identify prospective projects in a housing strategy, a housing strategy should be sufficiently explicit about the jurisdiction's priorities for allocating housing resources geographically and among different types activities and housing needs to enable the housing stategy to serve as a guide for project selection and to permit comparison of actual fund use with the pattern of fund use contemplated during public review of the housing strategy.

Eight, a housing stratey would describe the means of coordination and cooperation between states and localities in the development, submission and implementation of housing strategies. The committee recognizes that capacity to design and implement creative housing strategies is substantial and growing among state and local governments. The Committee bill is intended to build and tap this capacity and to encourage cooperation among jurisdictions in achieving the objectives of national housing policy. The strategies would help identify emerging forms of partnership among state and local governments and the private sector.

Ninth, a housing strategy would describe the quantity, condition, and role of public housing in the participating jurisdiction. The Committee recognizes that public housing has served an invaluable function in the nation's efforts to provide affordable housing, particularly to the lowest income Americans. Public housing is a resource that should be adequately maintained and utilized. The Committee intends that public housing be recognized as an integral component of a jurisdiction's housing strategy.

Tenth, a housing strategy would describe the standards and procedures the jurisdiction will use to monitor activities under the Act and ensuring long-term compliance with provisions of law. The Committee intends that the provisions of this Act, together with provisions of the Department of Housing and Urban Development Reform Act of 1989, will provide scrupulous oversight of the procedures and activities of participating jurisdictions (1) to ensure openness and fairness in the award of assistance to individual projects or recipients and (2) to prevent fraud, abuse and mismanagement in the implementation of the Act.

Lastely, the affordable housing strategy would include a certification that the participating jurisdiction will affirmatively further fair housing. The Committee intends that participating jurisdictions represent that they not only would comply with existing fair housing laws but also would affirmatively carry out activities that reduce or eliminate discriminatory impact in housing on the basis of race, creed, national origin, gender or disability. The Committee takes an expansive view of fair housing laws to not only include the Fair Housing Act, as amended, title VI of the Civil Rights Act of 1964 and the Civil Rights Act of 1966 but also the Community Reinvestment Act, the Home Mortgage Disclosure Act, the Equal Credit Protection Act and any other federal, state or local civil rights laws.

The Committee recognizes that some jurisdictions may receive relatively small amounts of funds from HUD or may receive funding for relatively narrow purposes. To avoid placing incommensurate paperwork burdens on such jurisdictions, the Committee bill authorizes the Secretary to accept abbreviated affordable housing strategies. In such instances the Secretary would determine the appropriate information to be included in an abbreviated housing strategy and ensure that such information bears a rational relationship to the type and amount of assistance sought by a jurisdiction. The Secretary is expected to require that such abbreviated strategies in all cases show relationships between the jurisdiction's use of HUD funds and the jurisdiction's affordable housing needs.

The Committee intends that the Secretary shall provide for timely review and approval housing strategies to permit sound management of state and local housing strategies in substantial compliance with the requirements, purposes and intent of the Act. The Committee intends that the Secretary would not act in an arbitrary or capricious manner in any decision to approve or disapprove a strategy.

The Committee recognizes that, to deal effectively with regional housing problems, state and local governments will have to work in closer cooperation not only on specific projects but also in designing their housing strategies. Thus the Committee recognizes the need to allow the Secretary to establish requirements to facilitate and encourage the coordination of state and local housing efforts. However, the Committee does not intend to give the Secretary or any state authority to require a local jurisdiction to have elements of its housing strategy approved by the state.

The Committee recognizes that a comprehensive affordable housing strategy also must take into account efforts of social service agencies that are attempting to address the housing concerns of various persons with special needs, for example, children, low-income and very low-income persons, elderly persons, persons with disabilities, and other persons served by such agencies. A lack of coordination between policies of social service agencies and housing policies has often resulted in ineffective delivery of housing assistance designed to aid those in need. The Committee bill would alleviate this problem by directing participating jurisdictions to consult with the relevant social service agencies and certify that this has been done.

The Committee notes that housing is inextricably linked to the environment in which it is placed. Homeowners and renters alike are affected by the quality of life in the surrounding community. The Committee regards consultation with social service agencies and coordination of the delivery of human services to be an integral part of an effective housing strategy. Efforts to improve the quality of housing will be ineffective if they fail to take into account the need to (1) address underlying social problems such as alcohol and substance abuse, or spouse abuse, (2) provide quality education and job training opportunities, (3) furnish sound infrastructure, and (4) provide safe streets and neighborhoods. The Committee has adopted a major new delivery system for housing resources based on compelling evidence that state and local governments can be more effective than the federal government at designing programs that are responsive to local needs. The Committee underscores its expectation that jurisdictions preparing housing strategies under this section will take into account the totality of the needs confronting low-income people and their communities and act accordingly in planning and coordinating the full range of services provided to them.

The Committee recognizes that some state and local jurisdictions have policies that create barriers to the development of affordable, racially and economically integrated housing. However, the Committee is also aware that sweeping, arbitrary or highly politicized federal action to eliminate such barriers could undermine development of a long-term housing partnership among the federal, state and local governments. The Committee is also aware that the Administration has appointed a blue-ribbon commission to study the question of barriers to housing affordability. Accordingly, the Committee bill would direct the Secretary, after receiving the commission's report, to submit to the Congress the Secretary's recommendations for legislative and administrative actions to eliminate such barriers. The Committee intends that the Secretary shall recognize legitimate public interests that state or local policies may serve.

The Committee notes testimony that racial segregation in both the public and private housing sectors remains a serious obstacle for many in exercising their housing choices. The Committee notes especially the continuing problems of segregation in HUD-assisted housing. In fulfilling the requirements of this section, the Committee expects the Secretary to pay special attention to those policies that contribute to such segregation and to make specific recommendations to eliminate them.

Certification: In order to assure that all HUD assistance be used to carry out the housing strategies of participating jurisdictions, the Secretary would require participating jurisdictions to certify compliance with their housing strategy upon application for assistance under the Act, the Community Development Act of 1974, or the Stuart B. McKinney Homeless Assistance Act.

Citizen Participation: The Committee bill would provide for effective citizen participation in each jurisdiction's development of a housing strategy, including assessment of (1) local market conditions, (2) strengths and gaps in the delivery system, and (3) the other factors affecting affordable housing. This process would be facilitated by (1) providing the public with information regarding the availability of funds, (2) publishing a proposed strategy and providing a reasonable public notice and comment period, (3) conducting public hearings on relevant housing issues to be addressed in the strategies, and (4) providing the public with access to any records regarding past assistance under the Act. The Committee intends that participating jurisdictions would be required to consider carefully the comments of citizens in the preparation of housing strategies and to provide the Secretary with a summary of the citizen comments.

The Secretary would have authority to establish by regulation practicable ways to provide fair hearing and timely resolution of citizen complaints related to housing strategies and performance reports. The Committee is especially sensitive to the need to provide the fullest practicable access to program planning and performance data in order to minimize the possibility of program mismanagement, fraud or abuse. Recent history at HUD provides ample warning to program administrators that lack of adequate oversight can hide serious problems and erode confidence in the programs. Therefore the Committee expects the Secretary to give these regulations regarding public and citizen access to these materials the highest priority, and expects the Secretary to establish procedures for handling complaints expeditiously. The Committee notes that citizen complaints may often be forwarded by groups or individuals whose resources will be small and whose activities may be opposed by the officials administering the program. It is therefore essential that the Secretary provide through regulation a process that is accessible and open and does not discourage participation by those with legitimate concerns or grievances.

Compliance: The Committee intends that each participating jurisdiction would submit an annual performance report that reviews the progress the jurisdiction has made in fulfilling the objectives of its housing strategy. If a jurisdiction fails to submit a timely and satisfactory report, the Secretary may (1) suspend assistance to the jurisdiction until the report is submitted or (2) withdraw and reallocate the assistance, after providing notice and opportunity for a hearing.

The Committee further intends that the Secretary would annually review a jurisdiction's compliance with the provisions of the Act. Such review would include on-site visits by HUD representatives and assessments of a jurisdiction's management of funds, compliance with the housing strategy, accuracy in the performance reports and compliance with any applicable laws.

The Committee recognizes that the Department of Housing and Urban Development was severely damaged by mismanagement, fraud and abuse during the previous Administration. The performance reports and the annual review by the Secretary required by the Committee bill, together with other provisions of law, are therefore designed to provide a powerful deterrent to fraud and abuse.

The Committee intends that litigation related to the development and approval of the housing strategy not be used as a mechanism to block or frustrate the ability of a participating jurisdiction to carry out an approved housing strategy in compliance with all other provisions of the Act. The Committee bill would therefore make the adequacy of information submitted under subsection 105(b)(4), which relates to the effect of public policies on the affordability of housing, not reviewable by any court. The Committee is aware that any explanation of ways in which public policies affect the cost of housing and the incentives to develop, maintain or improve affordable housing could be expanded without limit and could always be found by some to be inadequate. Therefore, the Committee bill provides that, if HUD, in accordance with established procedures for approval of housing strategies, decides that information submitted under section 105(b)(4) is adequate, the decision would be final. Court review of elements of a housing strategy would be limited to determining whether the requirements of this Act were substantially followed with respect to (1) the housing strategy's content and (2) the process according to which the housing strategy was developed. The Committee intends that the requirements of section 105 not provide avenues, in addition to those provided elsewhere in law, for court challenge to policies enacted by states or units of general local government. Thus, under the Committee bill, once a housing strategy is approved, the jurisdiction would be free to carry out the strategy with actions that comply with provisions of the Act. Litigation challenging the adequacy of a housing strategy or the action of the Secretary in approving the strategy could not, during pendency of such litigation, result in court action to enjoin activities taken by the jurisdiction to implement an approved housing strategy. Under the Committee bill, a jurisdiction's implementation of an approved housing strategy could be subject to a court order at the conclusion of the litigation. Any housing assisted during the pendency of such litigation would not be subject to an order of the court resulting from such action. The Committee emphasizes that this limitation on court review deal specifically with litigation relating to the adequacy of a housing strategy or the Secretary's action in approving a strategy. It would not affect court review of a jurisdiction's activities to implement an approved strategy, and it would not affect the ability of a court to enjoin such activities in connection with a court action other than litigation challenging the adequacy of a housing strategy or the action of the Secretary in approving the strategy.

Energy Efficiency Standards: The Committee is mindful of the need to promote energy efficiency in the country's housing. Last year, the Alliance to Save Energy reported that energy costs are the largest housing expense after rent or mortgage payments. Research found that energy represents about 20 percent of the typical monthly housing expense, and more than one-third of the housing budget of low-income families. The language in this section is a concrete step in finding opportunities to reduce consumer expenditures on energy and to free up family resources for other urgent needs. The federal government pays more than $1 billion each year for the energy bills of public housing. Much of this could be avoided with cost-effective investments. The Committee intends that HUD encourage energy efficiency in new construction of public and assisted housing.

To achieve such goals the Committee bill would authorize a task force to devise standards.

Tax and Housing Coordinating Council: The Committee believes that the lack of coordination between federal tax and spending policies has been a major source of frustration for lenders, nonprofit and for-profit developers, planners and government agencies trying to amass scarce resources for the development of low income housing. The Committee would remedy this problem by establishing a coordinating council consisting of the Secretaries of HUD, Treasury, and Agriculture along with the President's Chief Domestic Policy Advisor.

The Committee bill would encourage the coordination of income targeting requirements, affordability restrictions and other design factors among the tax laws and housing laws. The Committee believes that low-income families would be better served at lower overall cost if tax and spending incentives operated in tandem to encourage the expansion of the supply of affordable housing. The Committee believes that avoidable inefficiencies are created when disjointed requirements are imposed by the tax code and various housing programs.

The Committee bill would require the Council to submit a report to Congress within 3 months of the enactment of the National Affordable Housing Act detailing the state of the Nation's housing for low-income, moderate-income and middle-income families. The report would examine federal, state and local policies which affect housing, with a specific section detailing federal housing policies. The report would also contain an examination of the tax policies at the federal, state and local level which affect affordable housing especially for low and very low income families. The report would contain recommendations on the coordination of federal efforts and metods to best leverage scarce federal dollars. The Committee believes the Coordinating Council should be mindful of policies at the federal, state and local level which may be necessary to safeguard existing affordable housing and to ensure that minorities and other groups subject to housing discrimination have full access to decent, safe and afforable housing.

Capacity Study: The Committee bill would require the Secretary to ensure that HUD has adequate capacity and resources, including staff and training programs, to carry out its mission and responsibilities, and to implement the provisions of this Act.

Not later than 60 days after enactment of this Act, and annually thereafter, the Secretary would submit to the House and Senate Banking Committees a study detailing HUD's plan to maintain adequate capacity, together with any recommendations for legislative or administrative action.

### TITLE II—FHA/REVERSE EQUITY

FHA Ceiling: Development of the National Affordable Housing Act was driven in large part by three concerns: (1) the need to expand homeownership opportuniteis primarily for low-income, moderate-income, and middle-income first-time homebuyers, (2) the need to regain long-term financial strength for the FHA mutual mortgage insurance fund, and (3) the need to make FHA mortgage insurance available more equitably to homebuyers throughout the country.

Because of delays in the Administration's ability to release a major Price-Waterhouse study of FHA's financial condition, the Committee was forced to remove from the bill most provisions dealing with homeownership. The Committee decided to await the results of pending studies before acting upon other legislative initiatives affecting the financial condition of FHA. The Committee intends to take up these issues at a later date.

The Committee bill would avoid an imminent reduction in FHA's current ability to support homeownership by extending the current FHA mortgage ceiling of $124,785 for one-family residences through the end of fiscal year 1992. The Committee believes that maintaining the current ceiling will help strengthen the FHA mutual mortgage insurance fund and provide stability in the home sales market.

Delegation of Processing: The Committee bill would require the Secretary to implement delegated processing of FHA mortgage insurance for low and moderate income multifamily housing within 60 days of the passage of the National Affordable Housing Act. Designation of underwriting and other processing functions to be delegated to mortgagees would be left to the Secretary's discretion. The Secretary would retain authority to approve rents, expenses, property appraisals and mortgage amounts and to execute firm commitments to lenders.

The Committee believes that delegated processing must be implemented expeditiously to correct the virtual collapse of mortgage insurance to finance construction and substantial rehabilitation of affordable rental housing. The federal government is an indispensable partner if affordable rental housing is to be financed. The need for FHA is perhaps more urgent now than in the past. Recent changes in risk-based capital requirements for thrift institutions has drastically reduced their ability to finance multifamily production, and life insurance companies typically find the yields on low-income rental housing too low. Commercial banks are not able to provide long-term financing for affordable multifamily housing.

Since the co-insurance program was killed, FHA insurance has been available for affordable rental housing only through full insurance, which has a processing time nearly 2 years long. The Committe believes that prudent delegated processing is urgently needed to reverse sharp fall-off in starts in affordable multifamily housing.

The Committee believes that any program that provides the majority of multifamily housing units insured by HUD has a significant impact on the economy and, if terminated, has the potential to adversely affect the availbility of affordable multifamily housing for low and moderate income families. A decision to terminate such a program would constitute a major rule as defined in Section 1(b) of the Executive Order on Federal Regulation. The Committee intends for the Secretary to retain the authority to ensure that fraudulent actors are eliminated from the program and to make the necessary changes within the program to ensure its success.

Reverse Mortgage Insurance: Since the enactment of the home equity conversion demonstration, included in the Housing and Community Development Act of 1987, over 40,000 older homeowners have inquired about the possibility of participation. The 50 approved lenders each have several hundred people seeking their allotment of 50 loans.

The Committee bill would increase the number of loans eligible for the home equity conversion program to 25,000. The Committee believes the current 2,500 limit provides too few loans spread across the country to yield enough data to adequately analyze the strengths and weaknesses of the program. Since there are several options from which consumers can choose, adequate statistical analysis requires a larger number of participants than is now possible.

Crucial to the success of the program is the continued involvement of lenders, services and investors. As with the development of any new mortgage instrument, confidence is built over time and with experience. Start-up costs for offering this complex new product under the current program has forced lenders, servicers and investors to operate at a loss. Unless there is a reasonable hope that the program will be expanded in the near future, the success of the demonstration could be threatened not because the program is unworkable, but because the demostration was too small. A number of approved lenders have withdrawn from the program because of the small number of loans they are able to insure under current limitations.

The expanded demonstration program is intended to strengthen the small non-FHA insured reverse mortgage industry. The program would build the infrastructure for the insured and non-insured reverse mortgage products. The FHA reverse mortgage program has had a major impact in the industry developing a sound insurance model and arousing the interest of lenders, services, the secondary market, and investors in this new product.

The Committee bill would add additional consumer safeguards for participants in the program. Many older homeowners who would potentially use reverse mortgages want assurances that they will be able to preserve a portion of their equity for personal reasons such as to meet long-term care needs, or to provide a bequest to family members or a favorite charity. The committee bill would permit a recipient of an FHA insured reverse mortgage to preserve equity which as is possible under typical non-FHA insured reverse mortgages.

Three types of reverse mortgages are currently being marketed: (1) term loans in which monthly payments are made to borrowers over a specified period of time; (2) tenure loans in which monthly payments are made as long as the family lives in their home; (3) lines of credit where the borrower can make periodic withdrawals as the need arises. The Committee intends that lenders offer all three products to meet the particular needs of individual consumers. The Committee intends that elderly families be able to convert from one product to another. So as to ensure the marketability of reverse mortgages to investors and the secondary market, some limitations to this convertability are permitted to allow for fixed rate products.

In considering the expansion of the reverse mortgage program, the Committee became aware of the need for regulatory clarification to ensure that reverse mortgages are available in all states. In order to ensure the availability of the program throughout the nation, state statutes and regulations governing lending authority and Federal Reserve regulations governing consumer disclosures under truth in lending statutes must be clarified.

The Committee is aware for state constitutional, statutory and regulatory barriers that have impeded the issuance of reverse mortgages by both FHA-insured and non-FHA insured lenders in at least 25 states. Some of the impediments include: requirements for a specific maximum mortgage amount, restrictions on the uses of advances by consumers, limitation on loan-to-value ratio, limitations on the term of maturity, compounding of interest on interest, the term during which future advances can be made and secured by the property, treating reverse mortgages as annuities instead of as loans, and the term during which future advances take priority over intervening advances.

These statutes and regulations, which were generally meant to apply to other types of mortgages, have had a chilling effect on reverse mortgages. Many state-chartered lenders have been reluctant to make reverse mortgages that conform with federal regulations because of doubts about the scope of the federal preemption for alternative mortgages under the Alterntive Mortgage Transaction Partity Act of 1982 ("Garn-St Germain"). The uncertainty has been compounded by the lack of clarifying regulations and interpretations by the Federal Home Loan Bank Board and its successor, the Office of Thrift Supervision.

The Committee reaffirms the Garn-St Germain preemption of state constitution, law or regulation applying to state-chartered lenders with regard to alternative mortgage transactions, which include reverse mortgages. The preemption problem is compounded by the Federal Home Loan Bank Board's inactivity on the issue. While the Federal Home Loan Bank Board agreed that Garn-St Germain applies to reverse mortgages, the Board did not issue regulations specific to this unique type of instrument. The Committee intends that the Office of Thrift Supervision, the Office of the comptroller of the Currency, and the National Credit Union Administration shall issue opinions and regulations within six months of the passage of the National Affordable Housing Act on the federal preemption of Garn-St Germain with regard to reverse mortgages and the terms under which reverse mortgages may be offered.

Despite recent Federal Reserve amendments to truth in lending regulations regarding open-ended credit instruments, lender uncertainty persists over specific disclosure requirements for reverse mortgages especially in the areas of annual percentage rates and line of credit instruments.

The Committee believes that the uncertainty exists because the Federal Reserve has not published a model disclosure for reverse mortgages as it has done for other instruments, such as home equity loans. The problem is further compounded by the refusal of the Federal Reserve to grant opinions on disclosure proposals developed by reverse mortgage lenders.

The Committee directs the Federal Reserve Board to provide model disclosures and specific affirmative direction to reverse mortgage lenders regarding their truth-in-lending disclosure responsibilities.

Further, it is the intention of the Committee that neither the Garn-St Germain preemption of due-on-sale requirements nor Section 255(j) of the National Housing Act not be limited by Section 137(b)(3) of the Home Equity Loan Consumer Protection Act of 1988 regarding due on sale repayment requirements in the event of a conflict between the statutes.

## TITLE III—HOUSING OPPORTUNITY PARTNERSHIPS (HOP)

### *General Provisions*

Purpose: The Committee bill would provide federal assistance to expand the supply of affordable housing through one program that, at the national level, is both comprehensive and comprehensible and that is also flexible so that it can be adapted to differing local conditions.

The provisions of Title III, the "Housing Opportunities Partnerships Act", are designed (1) to expand the capacity of states and local governments to achieve an adequate supply of decent housing that is affordable to low-income and moderate-income families, (2) to make available on a one-stop basis the various forms of federal housing assistance that states and local governments need to provide more affordable housing in partnership with private industry and nonprofit organizations, (3) to maintain ongoing development of a "shelf" of model housing programs that can be adopted to local circumstances and accelerate nationwide adoption of the most effective methods for expanding the supply of affordable housing, (4) to increase private investment in affordable housing, (5) to allocate federal capital investment funds among participating states and local governments, partly by formula and partly by incentive allocation, (6) to leverage those funds as much as is practicable with state and local matching contributions and private investment, (7) to establish a revolving housing investment trust fund for each participating state and local government, and (8) to make financing available for affordable housing at the lowest possible cost, through better use of the facilities of existing agencies and mortgage finance institutions where they are most efficient and through supplemental means where appropriate.

Coordinated federal support: The committee bill requires the Secretary to make HOP investment assistance available to states and local governments in close coordination with mortgage insurance, rental subsidies and other federal housing assistance provided by the Secretary. Housing practitioners, in hearing testimony and working sessions, repeatedly warned that federal housing assistance to states and localities should be provided through a "one-stop" office. Earlier versions of the bill would have provided that "one-stop" office as a new "HOME Corporation" within HUD. The Committee believes that HUD could provide the needed "one-stop" support without the creation of a distinct corporate structure. The Committee bill would therefore require the Secretary to provide support for state and local housing strategies through a "one-stop" office that is able to provide the various forms of federal assistance needed for housing. The office should be structured to attract talented people who have an incentive to help the state and local housing strategies succeed. The Committee intends that this new housing initiative not simply provide governors and mayors with some funds and then leave them to struggle with several different bureaucracies—each with its own priorities, requirements and timetables—to get the other forms of assistance required to provide housing.

To expand the supply of affordable housing, several types of federal assistance have to be provided in close coordination: capital subsidies to reduce costs, mortgage insurance or other credit enhancements to attract private financing, vouchers or other rental assistance for low-income families, technical assistance to foster nationwide adoption of the best methods for providing affordable housing, expertise in the private housing investment and development sectors, and ongoing effort to ensure that the housing is well managed and affordable for decades to come. The Committee intends, therefore, that the one-stop office be part of the Office of Housing, reporting to the Assistant Secretary for Housing, who is responsible for all of these components.

Consolidation: The Committee bill would consolidate 9 existing programs into the HOP investment partnership. HOP provides one flexible delivery system to carry out many of the purposes of these older, more narrowly focussed programs.

The largest of the consolidated programs would be public housing development. The major reconstruction (MROP) portion of the program, which accounts for 20 percent of the funds and is used to salvage severely distressed projects, would be continued as a distinct activity within the CIAP modernization program. The remainder of public housing development would be consolidated into HOP, and the incentive allocation of HOP would be amended to encourage activities that meet the housing needs of families with incomes below 30 percent of area median.

Rental rehabilitation, would be continued on a transitional basis for two years. To do so, the Secretary would be authorized to set aside a portion of HOP funding, equal to the fiscal year 1990 rental rehabilitation program funding, for use in conformance with current rental rehabilitation program regulations. Nehemiah Housing Opportunity Grants would be terminated since "Nehemiah" homeownership assistance was intentionally designed into the purposes and eligible activities of HOP. Homeownership counselling, moderate rehabilitation and rehabilitation loans ae eligible activities under HOP. The congregate services program for frail elderly persons would also be consolidated into HOP, although the Committee intends that continued funding for projects now assisted under the congregate services program will be available under Project Retrofit and HOPE for Elderly Independence.

Advisory Board: The Committee bill would provide for strong public and congressional oversight of HOP activities by establishing a Housing Opportunities Partnerships Advisory Board with responsibility for reviewing the activities under HOP and providing advice to the Secretary on policy formulation.

The HOP Advisory Board would be composed of 18 members who would have expertise and broad experience related to the purposes of HOP—10 would be appointed by the Secretary, 4 would be appointed by the Chairman and Ranking Minority Member of the Senate Banking Committee's Subcommittee on Housing and Urban Affairs, and 4 would be appointed by the Chairman and Ranking Minority Member of the House Banking Committee's Subcommittee on Housing and Community Development. At least 3 members would have to have distinguished private sector careers in housing finance, management or development; at least 2 would be from state government and 2 from local government who have made outstanding achievements in housing finance or development; at least 3 would have to have backgrounds of leadership representing the interests of low-income tenants; and at least 3 would have to have achieved excellence in nonprofit housing development. Not more than 10 could be from any one political party. Members would have 3-year terms.

The Advisory Board would have power to confer with, request information of and make recommendations to the Secretary, who would be required to provide the Board with information it needs to carry out its responsibilities. The Board would submit to the Secretary and Congress an annual report containing its assessment of HOP activities and its recommendations for improvement. In order to increase the likelihood that any problems would be identified, the report would include minority views.

The Board would meet in Washington, DC at least twice yearly, could select its chairman, vice-chairman and secretary, and could adopt its methods of procedure. Members may be compensated and shall be entitled to reimbursement from the Secretary for traveling expenses related to attendance at Board meetings.

Authorization: The Committee bill would authorize appropriations for HOP activities of $2,000,000,000 for fiscal year 1991, $2,500,000,000 for fiscal year 1992 and $3,000,000,000 for fiscal year 1993—of which $25,000,000 in each fiscal year would be for activities under subtitle C to provide capacity development.

Timely regulations: The Committee bill would require the Secretary to publish regulations to implement this title not later than 180 days after the date of enactment of this Act.

### *Subtitle A—Housing Opportunity Partnerships (HOP)*

Funds under this title would be made available to participating states and units of local government for investment to expand the supply of affordable housing.

Eligible uses of investment: The Committee bill would provide participating jurisdictions with the broadest feasible selection of tools for achieving the national objective of affordable housing. The Committee recognizes that, since the national housing goal must be achieved within a diversity of local housing markets, federal efforts to achieve that goal must be tailored to many different local housing market conditions and other local circumstances. No one solution can work everywhere. Different solutions may be required at different times. The selection of the most effective forms of housing assistance can therefore be best made at the state and local level.

Assistance under this subtitle, therefore, could promote either rental housing or homeownership. It could be used for acquisition, construction, reconstruction, or moderate or substantial rehabilitation of affordable housing in conformance with a participating jurisdiction's comprehensive housing affordability strategy. And the assistance could be used for a variety of activities, including property acquisition, site improvement, conversion, demolition, and other expenses related to the provision of affordable housing, including expenses required to relocate persons, families, businesses or organizations displaced by activities under this subtitle.

Preference to rehabilitation: The Committee bill would require a participating jurisdiction to give preference to rehabilitation of substandard housing unless the jurisdiction determines that this is not the most cost effective way to meet the jurisdiction's need to expand the supply of affordable housing. The Committee intends that the test of cost-effectiveness shall be applied, where appropriate, to a package of related activities. That is, the requirement would recognize that it may be more cost-effective to provide new construction in a particular low-income neighborhood if it enables low-wage workers to be near places of employment, to be close to support systems (such as family members providing day care), or to help elderly family members maintain independent living. The availability of city services and infrastructure may also be important elements of overall cost-effectiveness.

The Committee believes that, in most cases, rehabilitation will prove to be the most appropriate way to achieve the purposes of this title. However, the committee intends that new construction on vacant city land be recognized as a potentially powerful and necessary stimulus to rehabilitation, particularly when it is part of a concerted neighborhood revitalization strategy. Such new construction may make rehabiliation more cost effective than if the rehabilitation were attempted on a scattered basis. The Committee recognizes that infill construction in many cases has proven to be an important incentive for private rehabilitation without federal assistance. Such factors should be taken into consideration when the relative cost-effectiveness of alternative activities is determined. When the Committee bill uses the term "housing" within this subtitle, it includes manufactured housing and manufactured housing lots.

Forms of investment: The Committee bill also gives broad discretion to participating jurisdictions in selecting the form of investment and setting the terms of assistance. The bill specifically permits funds made available under this subtitle to be employed as equity investments, interest-bearing loans, non-interest-bearing loans or advances, or interest subsidies. The Secretary is authorized to determine that additional forms of investment are also consistent with the purposes of the subtitle.

Prohibited uses: The Committee bill would not permit HOP funds to be used to (1) defray any administrative cost of a participating jurisdiction, (2) provide direct rental assistance to tenants, (3) provide non-federal matching contributions required under any other federal program, (4) provide operating subsidies to public housing, (5) finance modernization of public housing, or (6) carry out preservation activities authorized in other provisions of law. These prohibitions are made necessary by the Committee's intent that HOP be a new initiative focussed on expanding public and private investment for more affordable housing and not just a general fund for undifferentiated federal housing assistance. As reflected in the structure of this Act, the Committee intends that certain major federal housing responsibilities—such as the provision of rental assistance to very low-income families, the achievement of decent living environments in public housing, the delivery of supportive housing for persons with special needs, and the preservation of the existing inventory of federally-assisted low-income housing—should be carried out with distinct programs that are well designed to achieve specific national housing objectives.

Development of model programs: The Committee bill directs the Secretary to develop a "shelf" of model programs, each designed to provide detailed guidance for cost-effective achievement of an important housing objective. The shelf of model programs is a central feature of HOP. It would enable HOP to avoid the familiar dilemma that housing program design is either so centralized that it cannot take adequate account of differing local needs or so decentralized that it cannot, efficiently involve national industries and financial institutions. Typically, housing assistance has been provided through programs that are defined in federal law or regulation and therefore inadequately tailored to differing local circumstances or changing economic conditions. The mechanism of model programs would avoid that dilemma by adopting the strategy typical of private firms, where programs are under continual development and ongoing refinement. Programs that prove most effective expand, those that are less effective fall out of use.

Model programs would be developed in cooperation with participating jurisdictions, government-sponsored mortgage finance corporations, non-profit organizations, the private sector, and other appropriate parties. The Secretary would be expected to keep the shelf of model programs under an ongoing process of development, testing, evaluation, refinement, and replacement. Participating jurisdictions would have a selection of alternative model programs available for their use. Each model program would include suggested guidelines, procedures, forms, legal documents, computer programs and other elements. The Secretary would have to provide an appropriate variety of programs designed for differing local market conditions, housing problems, project characteristics and managerial capacities as they differ among jurisdictions.

The Secretary would be authorized to enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government-sponsored mortgage finance corporations, nonprofit organizations and other entities for the provision of services, products or financing required for the implementation of a model program. The Secretary would be required to make detailed information on each model program available to participating jurisdictions, private financial institutions, developers, nonprofit organizations and other parties who would have use for the information. The Secretary would be expected to encourage the adoption of model programs where that will achieve efficiencies, economies of scale and effectiveness in the investment of HOP funds. This encouragement could take the form of third-party training, provision of printed materials and other means.

Participating jurisdictions, either alone or in cooperation with other jurisdictions, would also be permitted to design additional forms of assistance not on the shelf of model programs. As a rule, each participating jurisdiction would have the right to adopt one or more model programs, to adapt those programs to its local requirements, and to suggest additional model programs for adoption by the Secretary. The exception to the rule is that the Secretary could require a jurisdiction to use its HOP funds only in strict conformance with approved model programs if the jurisdiction is found not to be in compliance with requirements of law.

The ongoing process of developing and refining model programs is intended to provide a powerful national forum for improving national housing policy. The shelf of model programs would enable less experienced jurisdictions quickly to make use of sophisticated and efficient methods for achieving local housing strategies. More experienced jurisdictions would benefit from economies of scale by having their best ideas included on the shelf of model programs, where they could be used and understood more widely by investors and developers. The development of model programs would benefit national industries and financial institutions working in housing by giving them a central clearing house on program design and making it easier for them to interact efficiently with a large number of federal, state, and local agencies as well as other private institutions.

Under Subtitle D, Congress could specify model programs for inclusion on the shelf.

Income targeting: The Committee bill would require each participating jurisdiction to invest all HOP funds in each fiscal year with respect to housing that qualifies as affordable housing.

Not less than 50 percent of a jurisdiction's HOP funds in each fiscal year would have to be invested in dwelling units occupied by very low-income families, those with incomes that do not exceed 50 percent of area median income. For the purpose of administrative feasibility, that test would have to be met at the time of initial occupancy or at the time HOP funds are invested, whichever is later. Other provisions of the subtitle are designed to ensure that HOP investment continues to provide long-term benefits for very low-income families.

Not less than 80 percent of a jurisdiction's HOP funds in each fiscal year would have to be invested in dwelling units occupied by low-income families, those with incomes that do not exceed 80 percent of area median income. This, of course, includes very low-income families mentioned in the previous paragraph.

Taken together with the definition of "affordable housing" described below, these limitations would require that all HOP funds invested in rental housing would be for units occupied by low-income or very low-income families. They would permit up to 20 percent of a jurisdiction's HOP funds to be invested for homeownership by families with incomes between 80 percent and 100 percent of area median. Homeownership assistance, as noted below, would have to serve families with a broad range of incomes below the area median, including a preponderance of low-income families.

Other provisions of the subtitle, such as the criteria for awarding incentive allocations of HOP funds, provide strong incentives for jurisdictions to exceed these minimum requirements and target a greater share of the benefits to low-income and very low-income families, including families with incomes below 30 percent of area median. The Committee believes that these provisions provide for tight income targeting of HOP funds while providing participating jurisdictions with the flexibility they will need to carry out balanced affordable housing strategies.

The Committee heard compelling testimony concerning the overwhelming housing needs faced by very low-income families. The 1985 American Housing Survey indicates that as many as 45 percent of the 7.1 million renter households living below the poverty line were paying more than 70 percent of their income for rent. Only 28 percent of all renter households living below the poverty line actually receives any form of government housing assistance. The Committee notes that the definition of "very low-income" in HUD programs, 50 percent of area median, even when adjusted for family size, is higher than the poverty level. The targeting decisions contained in this bill, reflect the Committee's conviction that special care must be taken to ensure that federal assistance goes to benefit those with the greatest housing need and the least ability to afford decent housing without such assistance. The Committee believes that this targeting can be achieved within state and local housing strategies that respond to severe problems of housing affordability that confront a broader segment of the population.

Qualification as affordable housing: The Committee bill would provide two sets of criteria for housing to qualify as affordable housing for which HOP funds may be invested: One set of criteria appropriate to rental housing, the other appropriate to housing for homeownership. The Committee intends that the investment of HOP funds shall provide houing affordable to very low-income, low-income and moderate income families for the longest feasible period of time. The Committee is aware that standard lending practices require the lifting of low-income use restrictions in the case of foreclosure or of property transfer in lieu of foreclosure. The Committee notes that provision for termination of occupancy and affordability requirements with respect to housing assisted under the low-income housing tax credit is included in section 42(h) of the Internal Revenue Code. The Committee intends that, in the case of housing developed by a community housing development organization, the Secretary's discretionary authority under section 315 shall include authority to establish procedures that permit termination of occupancy and affordability reuirements upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such provision is (1) required to attract private bank financing without federal insurance and (2) consistent with the purposes of this subtitle. The Secretary's determinations shall recognize any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure.

Rental housing: HOP assistance to rental housing is designed to expand the supply of decent housing that is available and affordable to holders of vouchers or rental certificates. HOP, rather than being an alternative to tenant-based rental assistance, is intended to work with vouchers and rental certificates and to make these tenant-based forms of housing assistance more workable.

To qualify as affordable housing under this title, rental housing would have to bear rents that don't exceed the lesser of (a) the existing section 8 fair market rents for comparable units in the area, or (b) a rent that doesn't exceed 30 percent of the adjusted income of a family with income at 65 percent of area median, as established by the Secretary with such adjustments as the Secretary deems appropriate. The latter rent level would ensure that the housing would be affordable to a broad selection of low-income tenants who do not hold a voucher or rental certificate.

Not less than 20 percent of the units would have to (1) be occupied by very low-income families who pay not more than 30 percent of their income for rent, or (2) be occupied by very low-income families and bear rents not greater than the gross rent for rent-restricted residential units required for the low-income housing tax credit. All of the affordable housing would have to be occupied by low-income families. None of the affordable housing could be refused for leasing to a holder of a section 8 voucher or certificate.

All of the affordable housing would have to remain affordable for the remaining useful life of the property or such other period as the Secretary determines is the longest feasible period of time consistent with sound economics, the purposes of this title and the objective of this Act. This formulation reflects the Committee's understanding that housing affordability must be measured in three important dimensions: (1) the length of time affordability is achieved, (2) the breadth or number of housing units made affordable with available funds, and (3) the depth or degree to which the housing is made affordable to the most needy families. Unavoidably, trade-offs must be made among the three dimensions. Because the country is now wrestling with the expiration of affordability of housing assisted under earlier federal programs, it is understandable that some believe that any future housing assistance should require affordability in perpetuity. However, the Committee recognizes that exclusive pursuit of long-term affordability would not be desirable if it means either that only a very few units of affordable housing can be provided at high cost or that affordable housing can only serve families with incomes near the top of those who are eligible.

The Secretary should be given discretion in this matter, since a different balance among the three dimensions of affordability may be appropriate for different objectives. For example, the Committee is aware that requiring low-income affordability for the remaining useful life of property assisted under HOP could preclude the use of HOP funds to encourage moderate rehabilitation by owners of a few units located in small buildings. This accounts for a large portion of the country's housing that could be made decent and affordable at relatively low cost. For this reason, the rental rehabilitation program has appropriately required owners to commit to low-income affordability for 10 years. The Committee bill would permit the Secretary where appropriate to authorize such periods less than the property's remaining useful life.

Newly constructed housing would have to meet the energy efficiency standards promulgated by the Secretary in accordance with Section 109 of this Act.

The Secretary would be authorized to adjust the rents permitted in affordable housing if the Secretary determines that such adjustment is needed to support the continued financial viability of the project. This provision is included not to permit avoidance of affordability requirements when a project is being developed but, instead, to avoid having a project driven into financial failure as a result of economic developments that are out of the owner's control and could not reasonably have been anticipated or foreseen during the project's development.

The Committee bill would not penalize a project's temporary non-compliance with the minimum income targeting requirements if (1) such non-compliance is caused by increases in the incomes of existing tenants and (2) the owner is taking satisfactory actions to ensure that all vacancies are filled so as to achieve compliance as quickly as feasible. Tenants whose incomes rise above 80 percent of median would be required to pay rents not less than 30 percent of the family's adjusted income.

The Committee bill would explicitly consider affordable housing to include mixed-income housing and mixed-use projects. That is, affordable housing under HOP could be a portion of the units in a larger project that includes a number of market-rate units and some non-residential uses. Funds made available under this subtitle could be used only with respect to those units that qualify as affordable housing. HOP funds could *not* be used for market rate units. The Committee intends the provisions of this subtitle not only to permit but, where market conditions make it feasible, positively to encourage mixed-income housing. The provisions of this subtitle are intended to encourage the provision of low-income housing in ways that, to the maximum feasible extent, (1) do not segregate or stigmatize low-income families and (2) bring normal market considerations to bear on project design, location and management.

Housing for homeownership: HOP assistance to housing for homeownership is designed to bring ownership of modest homes within reach of low-income and moderate-income families, including families receiving other forms of federal housing assistance, who otherwise could not expect to afford ownership of their own homes. The Committee continues to recognize that production of such homes can be a vital part of larger neighborhood rehabilitation efforts, as has been the case with the Nehemiah Housing Opportunity Grant program.

In general, HOP criteria for homeownership housing are based on requirements intensively negotiated during Congressional action on the Nehemiah provisions of the Housing and Community Development Act of 1987. HOP benefits would be more tightly targeted to first-time homebuyers with family incomes below area median income and below 80 percent of area median income.

To qualify as affordable housing under this subtitle, housing for homeownership would have to have an initial purchase price that does not exceed 95 percent of the median home purchase price for the area, determined with such adjustments for structure and age of housing that the Secretary determines to be appropriate. The home would have to be the principle residence of a first-time homebuyer whose adjusted family income does not exceed the area median. A jurisdiction's homeownership program under HOP would have to serve families with a broad range of incomes below the area median, with a preponderance of assisted families having incomes below 80 percent of the area median.

Increasing affordable homeownership opportunities for low and moderate income families is one way through which the overall supply of affordable housing can be increased on a net basis, especially if deliberate efforts are made to market these homes to families now living in government-assisted housing. The Committee heard testimony that many such families remain in government assisted housing even when their rents, which are tied to income, become quite high in absolute terms, because they do not have realistic alternatives in the private market. The Committee hopes that participating jurisdictions and the Secretary will take advantage of their ability to use HOP funds for homeownership to create housing opportunities for such families and rebuild the ladder of opportunity in housing.

The Committee has defined first-time homebuyers to include displaced homemakers. This is based on compelling testimony received by the Committee demonstrating that it is common for women to lose their ownership interest in a home as a result of divorce and then not be able to qualify for assistance such as that envisioned by these provisions because of their previous interest in a home. Given the substantial increase in single-parent families headed by women and the obvious public interest in helping such families obtain secure housing over which they can exercise control and gain stability for their families, this change is long overdue.

The Committee intends that the investment of HOP funds shall provide benefits for subsequent potential homebuyers who are eligible, rather than benefits only for the initial purchasers of the homes. The objective of this subtitle is to expand long-term homeownership opportunities for low-income and moderate income families. Since HOP investment will make homes available at prices substantially below market, failure to ensure ongoing affordability could inappropriately permit large windfall gains to a fortunate few and would create temptations for abuse. Participating jurisdictions would therefore have to ensure that this housing shall remain available for subsequent purchase only to persons who meet the program's initial eligibility requirements and at a price that is consistent with guidelines that the Secretary shall establish to provide each owner with a fair return on investment, including any investment in improvements, and to ensure that the housing will remain affordable to a reasonable range of moderate income homebuyers.

The Committee intends that regulations to carry out section 315 shall make appropriate provision for lease-purchase of housing by low-income families.

Participation by States and Local Governments: The Committee bill is designed to build a strong, nationwide network of States and local governments willing to join together with the federal government, private industry and nonprofit organizations in an investment partnership to expand the supply of affordable housing. The Committee intends that the Department of Housing and Urban Development support the creation across the country of partnerships able to assess local housing problems, acquire sophisticated skills, adapt to local conditions, adjust to changes in the economy, marshall public and private resources, and pursue major housing objectives over time.

The Committee recognizes that achievement of this partnership depends on several preconditions. First, each state and locality must make a decision to participate. This involves a commitment of its own resources and a willingness to change its policies in ways that make housing more affordable. Second, available funds must be distributed in a way that provides each participating jurisdiction with a funding level that is sufficient to support a credible 5-year housing strategy and to encourage states and localities to make significant changes in their own policies. The Committee recognizes that not all states and eligible local governments are now ready to carry out full scale housing strategies. Therefore, the Committee bill provides technical assistance and gives jurisdictions a reasonable time to build their capacity.

The Secretary would be required, as soon as practicable, to promulgate regulations establishing clear procedures for states and units of local government to become participating jurisdictions under this title. The Committee intends that these procedures shall ensure that each participating jurisdiction has sufficient commitment and available housing resources to carry out a workable housing affordability strategy. The Committee also intends that the Secretary will work with states and eligible units of general local government, providing technical assistance as appropriate under subtitle C of this title, to achieve nationwide participation in the HOP investment partnership as soon as practicable.

The Secretary would be required to allocate available funds among states and eligible units of general local government in accordance with section 317 of this Act. As a rule, this allocation would have to be made annually within 20 days after funds to carry out this subtitle are made available in appropriations. To provide for orderly program startup, the Committee bill would require the first-year allocation to be made within 20 days after (1) funds are appropriated or (2) implementing regulations are promulgated, whichever is later. The Secretary would be required promptly to send each jurisdiction that receives an allocation a notification informing the jursidiction of its allocation. Any notification sent to a jurisdiction that is not already a participating jurisdiction, shall include information on how the jurisdiction may become a participating jurisdiction.

In general, any jurisdiction that receives a formula allocation of $2,000,000 or more under section 317 woud be eligible to become a participating jurisdiction. This means that every state would be eligible. The number of eligible local governments would be determined by the level of appropriations.

The formula allocation method in section 317 would result in having a number of local jurisdictions identified as almost eligible to become participating jurisdictions, those jurisdictions receiving an allocation between $1,500,000 and $2,000,000. The Committee intends to enable these smaller local jurisdictions to participate, but in a way that does not spread HOP assistance too thinly to be employed effectively.

Section 316 of the Committee bill provides such jurisdictions with two ways in which they can achieve the $2,000,000 threshold for participation. First, if a jurisdiction is the city with the largest population in a metropolitan area, has a local housing authority, and has demonstrated a capacity to carry out provisions of this subtitle, the jurisdiction would be eligible to participate if the shortfall below $2,000,000 is made up by (1) having the state agree to transfer a portion of the state's allocation to the jurisdiction or (2) having the state or local jurisdiction make up the shortfall with contributions of their own funds. Any such contribution would have to be in addition to the non-federal match required under section 320. Second, georgraphically contiguous units of general local governments that receive an allocation could become eligible to participate by forming a consortium and "pooling" their allocation amounts. They would have to satisfy the Secretary that the consortium has sufficient authority and administrative capacity to act on behalf of the member jurisdictions in carrying out the purposes of this Act. Once approved, such a consortium would be deemed to be a unit of general local government for other purposes of this subtitle.

The Committee designed this method in response to compelling evidence that a major housing initiative such as HOP must allocate limited housing assistance to a state or locality in an amount that is sufficient to support a credible strategy for expanding the supply of affordable housing. Other approaches, such as extending eligibility to all jurisdictions with populations above some chosen size, would inevitably spread a large portion of available funds too thinly to carry out significant housing objectives or to justify the administrative support required for effective housing activities. The distribution of housing assistance should be tailored to the special requirements of housing.

The Committee bill specifies a timely procedure for designation of states and units of general local government to be participating jurisdictions. This procedure would apply only to jurisdictions that are not yet participating. Once a state or unit of general local government becomes a participating jurisdiction, designation in subsequent years would be automatic unless the designation is revoked in accordance with subsection 316(8).

First, under this procedure, each jurisdiction would have 30 days after being informed of its eligibility to notify the Secretary of its intention to become a participating jurisdiction. Second, the Secretary, in response, would reserve the jurisdiction's allocation for an appropriate period of time to give the jurisdiction an opportunity to achieve designation. During this period, the jurisdiction would also be eligible to receive any reallocations of funds. Third, the jurisdiction would have 90 days to submit a comprehensive housing affordability strategy. Fourth, the Secretary would have a period of time to approve or disapprove the strategy, as specified in section 105 of this Act. And finally, as soon as the strategy is approved, the Secretary shall designate the jurisdiction to be a participating jurisdiction.

If the Secretary determines that the jurisdiction has failed to meet the requirements of this procedure, the Secretary would reallocate the reserved amounts among participating jurisdictions and other jurisdictions eligible to receive reallocations. Amounts reserved for a state would be reallocated by incentive allocation among units of local government within the state, except that, if localities within the state do not submit approvable applications for all of the funds within 12 months, any remaining amounts would be allocated by formula among participating states. Amounts reserved for a unit of general local government would be reallocated to the state if the state is a participating jurisdiction. Otherwise, the locality's funding reservation would be made available through incentive allocation among other localities within the state, except that, if localities within the state do not submit approvable applications for all of the funds within 12 months, any remaining amounts would be allocated by formula among participating local jurisdictions.

The Secretary would be authorized to revoke the designation of a jurisdiction for one of two reasons. First, the designation could be revoked if the Secretary finds, after giving the jurisdiction reasonable notice and an opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this title. Second, the designation could be revoked if the jurisdiction's allocation falls below $2,000,000 for 3 consecutive years, below $1,750,000 for 2 consecutive years, or below $1,500,000 in any one year. The Committee intends that amounts made available under paragraph 316(2)(A) would be counted as part of a local jurisdiction's allocation for purposes of the previous sentence.

Allocation of resources: After reserving 1 percent for Indian tribes, the Secretary would allocate the remaining appropriated funds—80 percent by formula and 20 percent by incentive allocation.

The bill would create an Indian housing set-aside equal to 1 percent of HOP funds. Indian tribes maintain a unique government to government relationship with the Federal government and are not subject to the jurisdiction of state and local governments. The Committee feels that this set-aside it the best way to incorporate Indian tribes into the HOP in an equitable manner. This set-aside will be administered subject to criteria developed by the Secretary. The Committee intends, however, that funds set-aside for Indian tribes should be invested in conformance with the purposes of the title. Although a tribe would not be required to submit a housing strategy, as provided for in Section 105, a grant application shall demonstrate how the proposed project will contribute to a comprehensive approach for expanding the supply of affordable housing within the tribe's jurisdiction. The Committee intends that contributions of land, labor, cash or materials or equipments as detailed in Section 320 be considered as eligible matching requirements under this set-aside.

The formula distribution would go 60 percent to units of general local government and 40 percent to states in fiscal years 1991 and 1992. For subsequent fiscal years, the formula amount would be divided between states and local governments in proportions established by Congress after receiving recommendations from the Secretary based on an annual, independent study of the performance of states and localities. The division of HOP funds between states and local governments was a continuing source of controversy as the National Affordable Housing Act was being developed. Originally, states urged that 70 percent of the funds be distributed to them because they believed that state government is in a better position to address housing problems on the basis of area housing markets. Local governments urged that 70 percent of the funds be distributed to localities because they have a longer history of working on housing problems and because of the precedent established in the division of funding under the Community Development Block Grant (CDBG) program. The Committee finally decided that a 40 percent state, 60 percent local division would be most appropriate for several reasons. First, it reflects the fact that a disproportionate share of the funds in programs consolidated into HOP would have gone to local govenments. Second, it recognizes that the CDBG division is not analogous, since under CDBG state funds are to be used only in non-entitlement areas. HOP properly would give each participating state responsibility for serving housing needs throughout the entire state, including needs in participating local jurisdictions. The Committee believes that state governments must be given responsibility for the whole state since the achievement of affordable housing will require close coordination among activities of local and state governments.

Further elements of the funding allocation are as follows:

Indians: The Secretary would be required to reserve 1 percent of any amounts appropriated under this subtitle to meet the housing needs of Indian tribes. The reserved amount would be distributed by competition among applications submitted by Indian tribes in accordance with regulations that the Secretary would promulgate.

Formula allocation: The Secretary would establish in regulation a formula that takes into account each jurisdiction's share of the Nation's need for an increased supply of affordable housing, using objective measures of tightness in the housing market, inadequate housing, proverty, and the costs of producting housing. The measures of tightness in housing markets shall relate to the availability of housing affordable to very low-income, low-income and moderate-income families. One such measure would be a decline in the number of housing units renting for less than 30 percent of the income of very low-income families. The Committee intends that the Secretary, in developing the formula allocation, shall consult with the HOP Advisory Board and leading housing research organizations, such as the Low-Income Housing Information Service, the Joint Center for Housing Studies at Harvard, the Center on Budget and Policy Priorities, and the Urban Institute. One formula would be used for all formula allocations or reallocations under this subtitle

Each state would receive a minimum allocation of $3,000,000. If no local governments within a state receive an allocation, the state's allocation would be increased by $1,500,000. Priority for such increased allocation would go to the housing needs of cities within the state that are the largest city within a metropolitan area.

Formula amounts would be allocated among a group of local governments that only includes local government that are allocated $1,500,000 or more under the formula. That is, a locality would not appear on the allocation list if the formula would not allocate the locality at least $1,500,000.

No state would be allocated more than 15 percent of the amount allocated by formula among all states. Similarly, no local government would be allocated more than 15 percent of the amount allocated by formula among all local governments.

Incentive allocation: The Secretary would be authorized to make an incentive allocation to participating jurisdictions in amounts that do not exceed the jurisdiction's formula allocation. That is, an exemplary jurisdiction could as much as double the HOP funds made available to it under the formula allocation. Incentive allocations would only be made to jurisdictions that demonstrate good faith efforts to achieve coordination among a state and local governments within the state in carrying out housing activities under this title.

The Committee intends that incentive allocations be made to the maximum feasible extent according to objective criteria that are set forth in advance in writing. The intent of the incentive allocation is not to give the Department additional powers to reward favored jurisdictions or to punish others. Instead, the intent is to provide all participation jurisdictions, in advance, with clearly stated indicators of program quality that federal policy seeks to foster. The Committee expects the Secretary (1) to solicit public comment during the process of developing the selection criteria on ways to ensure the objectivity and fairness of the incentive allocation, and (2) to make public the selection criteria and the weights to be given each in determining awards.

The Committee bill specifies several criteria that the Secretary shall take into account. First, the incentive allocations shall consider an applicant's demonstrated commitment to expand the supply of affordable housing, including (1) exceeding the minimum requirements for targeting benefits to very low-income families, with extra consideration given for activities that serve families with incomes below 30 percent of area median, (2) providing matching funds in excess of the amounts required under section 320, and (3) achieving a high degree of investment and participation in development by the private sector, including nonprofit organizations. Since differences in fiscal capacity create significant differences in jurisdictions' ability to provide matching funds, the Committee expects the Secretary to include adjustments for such differences in fiscal capacity in regulations implementing the incentive allocations.

Second, the incentive allocations shall consider the degree to which the applicant is pursuing policies that (1) make existing housing more affordable, (2) remove or ameliorate any negative effects that the applicant's own public policies may have on the cost of housing or on the incentives to develop, maintain, or improve affordable housing in the jurisdiction, (3) preserve the affordability of privately-owned housing that is vulnerable to conversion, demolition, disinvestment, or abandonment, (4) increase the supply of housing that is affordable to very low-income, low-income, and moderate-income persons, particularly in areas that are accessible to expanding job opportunities for such persons, and (5) remedy the effects of discrimination and improve housing opportunities for disadvantaged minorities. And third, the incentive allocations shall take into account the degree to which the applicant needs the additional funds to carry out a housing strategy that will (1) serve as a national model, (2) demonstrate promising new methods for expanding the supply of affordable housing, (3) ease a severe regional shortage in one or more categories of affordable housing, such as housing for large families or housing for persons with special needs, or (4) respond to particularly difficult housing problems.

The Committee bill authorizes the Secretary to make any reallocations of funds under this subtitle periodically throughout each fiscal year. The Committee intends that funds provided by Congress under this act shall be made available for use by participating jurisdictions promptly and to the maximum extent that is practicable and consistent with orderly program administration.

The Committee bill requires the Secretary to establish procedures according to which participating jurisdictions shall commit funds made available under this subtitle. The procedures would identify appropriate stages of commitment from initial reservation of funds through contractually binding commitment. The Committee intends this provision to strengthen federal oversight of HOP-related activities and monitoring of state and local progress in the investment of HOP funds in affordable housing.

Although the Committee bill would divide formula HOP funds 60 percent to local jurisdictions, and 40 percent to states, the bill provides for annual reconsideration of the percentage division for fiscal years 1993 and beyond. To achieve this, the Secretary would conduct an annual, independent study of the participation of states and local governments. The studies would consider (1) the percentages of states and of eligible local governments that have become participating jurisidictions, (2) the extent to which participating states and local governments have exceeded the minimum income targeting requirements, and (3) the extent to which participating states and units of general local government exceed the minimum requirements for matching funds, provided that the Secretary would be expected to take into account differences in fiscal capacity. After consulting with the Housing Opportunity Partnerships Advisory Board on the study results, the Secretary would be required to submit recommendations to Congress on any changes in the percentage division between states and local jurisdictions. To prevent possible delays in Congressional action from disrupting timely formula allocation of HOP funds, the Committee bill provides that, if Congress does not specify a percentage division prior to the beginning of a fiscal year, the Secretary shall proceed with the percentage division utilized in the previous fiscal year.

Housing Investment Trust Funds: The Committee intends that HOP funds (1) be made available promptly for investment in affordable housing, (2) be invested in a property only so long as that investment is needed to achieve affordability, (3) be treated as if they were the participating jurisdictions' own scarce resources, and (4) remain invested only in conformance with national housing objectives and the provisions of this title. Drawing on the experience of successful non-federal housing activities, the Committee bill provides incentives for participating states and localities to employ HOP funds not just as non-recoverable grants but, wherever appropriate, through imaginative forms of investment that provide for repayment of the funds to an extent consistent with the achievement of long-term, low-income affordability. As a result of suggestions from many housing practitioners, the Committee concluded that establishing a revolving "housing investment trust fund" (HITF) for each participating jurisdiction would be the most efficient way to achieve the various purposes of this title.

With respect to the initial use of funds appropriated under this title, the Committee bill would retain HOP funds fully within the federal government and within the control of the Secretary until the Secretary approves disbursement. The bill would not make a HOP allocation immediately available to a participating jurisdiction or permit a jurisdiction to draw funds from its HITF prematurely for the purpose of earning interest. Disbursement procedures would result in a federal outlay only when the ultimate housing use of the funds is clearly established. Disbursement would occur only in response to the participating jurisdiction's certification, in a form satisfactory to the Secretary, that the funds will be used in compliance with all of the requirements of this title. Among those requirements is that participating jurisdiction shall invest all of the funds drawn from its HITF, together with any interest earned on those funds, in specified affordable housing not later than 15 days after the funds are drawn from the HITF. The disbursement would be tailored to the form of assistance selected by the participating jurisdiction. That is, disbursement from an HITF could reflect loan advances in several stages of a project's completion or it could reflect periodic payment of interest subsidies over the life of the loan. The Committee intends that the Secretary shall support orderly management of state and local housing strategies by (1) establishing disbursement procedures that ensure immediate and predictable disbursement of HITF funds as soon as the requirements of law are met and (2) keeping each jurisdiction informed of the status of the amounts in its HITF, including the status of amounts under various stages of commitment.

The Secretary could not charge any interest or fee with regard to funds in an HITF. That includes funds drawn from an HITF.

The Secretary would establish a line of credit in the HITF of each participating jurisdiction, indicating the amount of HOP funds available for achievement of the jurisdiction's approved housing strategy. The line of credit would include and be increased by (1) funds allocated to the jurisdiction under the formula or incentive allocations specified in section 317 and (2) funds paid or repaid into the HITF as a result of loan repayments or otherwise in accordance with section 319. The line of credit would be reduced by

(1) amounts drawn, i.e. disbursed, from the HITF, (2) amounts that expire as noted below, and (3) any penalties assessed by the Secretary as a result of misuse of funds.

A participating jurisdiction would have to place HOP funds under binding commitment within 24 months after the funds are deposited in its HITF. Otherwise, the Secretary would be required to remove the funds from the HITF and reallocate them to other participating jurisdictions.

Repayment of invested funds: The Committee bill specifically provides that HOP funds invested in affordable housing shall be repayable when the housing no longer qualifies as affordable housing. The Committee bill provides that any repayment of funds drawn from an HITF, together with any interest or other return earned through the investment of such funds in affordable housing, would have to be deposited in the participating jurisdiction's HITF. The Committee intends that repayments be treated in a way that maintains each jurisdiction's incentive to seek such repayments where appropriate. To achieve this, the Committee intends that repaid amounts shall not be used to reduce amounts made available to a jurisdiction by formula or incentive allocation or otherwise. Furthermore, the Secretary would be authorized to take actions that would permit the participating jurisdiction to draw the repaid funds from the HITF immediately to the same extent as funds made available by formula or incentive allocation. Such actions may include establishing an HITF account structured so that a jurisdiction's repayments would not be receipts of the Federal Government or subject to appropriations under other provisions of law. Disbursement of repaid funds would be made only for investment in affordable housing within the jurisdiction's boundaries and only in compliance with requirements that apply to other funds in an HITF.

Matching requirements: Each participating jurisdiction shall make contributions to affordable housing assisted under HOP in amounts that are not less than 25 percent of the total funds drawn from the jurisdiction's HITF. The required match would be calculated throughout a fiscal year based on the aggregate amounts to be drawn from the HITF in that fiscal year. That is, at any time in a fiscal year, a jurisdiction could make withdrawals from its HITF that in the aggregate are equal to or less than 4 times the matching contributions made up to that time.

Matching contributions would be counted if they were made with respect to housing that qualifies as affordable housing or with respect to a project that includes affordable housing. Contributions for administrative expenses would be recognized only up to 7 percent of the HOP funds provided for investment.

Although the Committee believes that matching contributions should take a variety of forms to accommodate the different fiscal capacities among states and local governments, the Committee intends that a contribution should only be recognized if it is in a form that can be assigned a dollar value readily and objectively.

Matching contributions could be in the form of (1) cash contributions from non-federal sources, which could not include Community Development Block Grants, (2) payment of administrative expenses, which could include payments from a Community Development

Block Grant, (3) the value of taxes, fees, or other normal and customary charges that are waived, foregone or deferred in order to achieve affordability of HOP-assisted housing, (4) the value of land or other real property, (5) the value of sweat equity invested in the housing, (6) the value of investment in needed on-site and off-site infrastructure, or (7) other in-kind contributions that the Secretary may approve. Examples of state and local contributions are grants from private individuals or institutions, such as churches and foundations, property tax abatements, credits against state or local income taxes authorized for contributions to nonprofit of neighborhood housing revitalization activities, waivers of infrastructure hook-up and impact fees, and state low-income housing tax credits. The Committee intends that the grant equivalent of any below-market-rate loan be considered an eligible matching contribution. For example, the contribution could equal the net present value of interest foregone by benevolent lenders or by other lenders offering concessionary financing.

As a further accommodation to a jurisdiction that is fiscally distressed or has other unusual obstacles in the way of participation, the Committee bill would authorize the Secretary to reduce the jurisdiction's matching requirement for the first three years after initial designation. The reduction could not be greater than 75 percent in the first year, 50 percent in the second year, and 25 percent in the third year.

Private-public partnership: Consistent with the Committee's intent that this title of the bill foster the development of strong and imaginative housing partnerships across the country among states, local governments, private industry and nonprofit organizations, the bill would require each participating jurisdiction to make all reasonable efforts, consistent with the purposes of this title, to maximize private sector participation in the implementation of the jurisdiction's housing strategy. This participation would include for-profit and nonprofit organizations and would include participation in the financing, development, rehabilitation and management of affordable housing. The Committee believes that public housing authorities are in many cases the most appropriate agency to implement a housing activity, particularly activities intended to serve families with very low incomes. The Committee therefore does not intend that the emphasis on private-public partnerships should in any way prejudice the full participation of public housing authorities in the implementation of housing strategies.

Distribution of assistance: The Committee intends that the comprehensive housing affordability strategies required under section 105 shall be working documents that guide the investment of HOP funds in practice. Participation of the public in the development and review of housing strategies is intended to ensure that HOP funds are invested without favoritism and in pursuit of clearly stated public objectives. The Committee bill therefore requires participating jurisdictions, insofar as is feasible, to distribute assistance under this subtitle geographically within its boundaries and among different categories of housing need in accordance with the priorities of housing need identified in the jurisdiction's housing strategy.

The Committee recognizes that better cooperation between state and local government is vital to the achievement of more affordable housing. In many cases, coordinated changes in state and local policies, as well as in federal policies, will be needed to make housing as affordable as possible. Therefore, the Committee bill gives each state responsibility for housing needs throughout its jurisdiction, not just in areas outside the boundaries of a participating local jurisdiction. The Committee is aware that joint participation of a state and a local government in the support of a housing project can bring forth significant improvements in policies that affect housing affordability. Since the Committee recognizes that the appropriate measures of housing need may not be the same in urban and rural areas, the Committee bill requires states to distribute assistance to rural areas in a way that properly takes account of rural housing need.

In the case of neither a state nor a local jurisdiction are the provisions of section 322 intended to encourage HOP funds to be spread geographically more thinly than required for prudent implementation of a housing strategy. The requirements of this section are intended, instead, to ensure that the selection and location of assisted activities shall reflect priorities clearly stated in an approved housing strategy.

Set-aside for community housing development organizations: The Committee recognizes and seeks to encourage the outstanding work of nonprofit community-based housing development organizations (CHDOs). CHDOs are housing developers that are accountable to the low-income communities they serve. CHDOs have emerged over the past decade to be among the most active developers of low-income housing.

The Committee heard substantial testimony regarding the increased importance of community based housing development organizations in providing and preserving housing opportunities for those in need. The National Housing Task Force report highlighted this sector as one deserving special attention in any new federal housing legislation, and numerous witnesses attested to its vitality and unique contributions.

According to research by the National Congress for Community Economic Development, CHDOs are active in every state, and almost 2,000 CHDOs have completed projects. Among the most important contributions of CHDOs are (1) their knowledge of and responsiveness to the housing needs of low-income community residents, (2) their ability to involve community residents in the planning, development, and operation of low-income housing, to mobilize community support for low-income housing, and to build indigenous community leadership, (3) their willingness to undertake housing in the distressed inner-city and rural areas where many low-income people live, and to do so as part of a concerted and comprehensive community stabilization strategy, (4) their commitment to serving households with acute housing needs, including large families with children, single-parent headed families, racial and ethnic minorities, the homeless, and the disabled, (5) their willingness to link housing with social services, (6) their commitment to perserving low-income housing opportunities on a long-term basis, and (7) their ability to forge lasting and effective partnerships with government at all levels, financial institutions, the business community, private foundations, and nonprofit community development intermediary organizations. For these reasons the Committee bill encourages participating states and localities to use and build the capacity of CHDOs in the implementation of housing strategies.

The Committee notes that well-established CHDOs offer many advantages. First, the housing agendas of these groups usually emerge from constitutent-based efforts to improve their neighborhoods. Second, these groups are motivated by a history of service and accountability to their communities. Their goal is to create and maintain resources in the community. Their perspective is long-term and service oriented. Third, these groups are willing to take on small-scale, difficult development efforts that preserve the scale and character of their communities. Their orientation disposes them to "work small" where that is appropriate. Nonprofit community-based enterprises have emerged all over the country in the last 10 years. While their achievements are impressive, their capacities are still growing and in many parts of the country their growth must be nurtured or stimulated. New federal housing policies must emphasize the development and use of this sector. While such initiatives cannot yet be relied on to provide all housing resources for low income people, they must be highlighted as one of the most promising vehicles for delivering affordable housing.

The Committee carefully considered provisions in major legislation pending before Congress, such as the Community Housing Partnership Act, that would allocate funds exclusively for use by such community-based nonprofits. The Committee bill incorporates key elements of that legislation, but, rather than creating a separate program for community-based development organizations, the Committee believed the best policy would be to make provision for CHDO housing within one comprehensive program, such as HOP.

Each participating jurisdiction would be required to reserve not less than 10 percent of any HOP funds made available by allocation or reallocation for a period of 18 months for investment in housing to be developed, sponsored, or owned by CHDOs. The required set-aside would be increased to 15 percent after the third year following the jurisdictions designation as a participating jurisdiction, unless the jurisdiction annually demonstrates to the satisfaction of the Secretary that CHDOs cannot effectively use such amounts. Each participating jurisdiction would be required to make reasonable efforts to reach out to CHDOs and encourage them to participate in the implementation of the housing strategy.

If a participating jurisdiction demonstrates that it has tried and failed to invest the funds reserved for CHDOs during the 18 month period, the jurisdiction would be free to invest up to 50 percent of the reserved funds in housing not provided by CHDOs. The remaining funds would be distributed by incentive allocation (1) among CHDOs in that and other jurisdictions, and (2) among competent nonprofit organizations to carry out capacity development of CHDOs, with preference to CHDOs serving the jurisdiction.

If at the end of the 18-month period a participating jurisdiction has not invested the funds reserved for CHDOs and cannot demonstrate that it has made good faith efforts to do so, the Secretary would recapture the funds and make them available by incentive allocation among applications submitted by CHDOs, giving preference to affordable housing within the boundaries of the participating jurisdiction.

The Committee intends that, as it applies to this title, the definition of the term "community housing development organization" shall include subsidiary organizations owned or controlled by a CHDO for purposes consistent with the purposes of this title. Thus, housing would be considered to be developed by a CHDO if a CHDO is the managing general partner of a limited partnership that develops and owns the housing.

Penalties for misuse of funds: The Committee intends that activities assisted under this title shall be carried out in the sunlight and under careful scrutiny. HUD will have responsibility for oversight rather than implementation. Congressional oversight would be fostered by the specifically defined purposes of the title and the requirements for detailed and timely performance information. Additional monitoring would be provided by GAO and the HUD Inspector General, the HOP Advisory Board, state and local officials, the media and the public.

The Committee notes that enactment of the HUD Reform Act of 1989 provides powerful new requirements for proper use of federal funds and new penalties for misuse of such funds. All of those provisions would apply to state and local activities under HOP. Participating states and local jurisdictions, for example, would be required to publish clear procedures, acceptable to the Secretary, according to which HOP funds would be distributed under objective criteria of merit. The basis on which any funding award is made or denied would have to be fully documented.

The Committee bill would authorize the Secretary to impose additional stiff sanctions closely tailored to the sound operation of HOP. If, after due hearing, the Secretary finds that a jurisdiction has failed to comply substantially with any provision of this subtitle and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary would be required to remove an amount from the jurisdiction's housing investment trust fund (HITF) equal to the amounts misused. Furthermore, the Secretary may (1) prevent withdrawals from the HITF for activities affected by the noncompliance, (2) restrict the participating jurisdiction to activities that strictly conform to one or more approved model programs, or (3) remove the jurisdiction from participating in any allocations or reallocations of funds under this title.

Limitation of a jurisdiction under court order: If a jurisdiction has been judged to have violated title VI of the Civil Rights Act of 1964, the Fair Housing Act or any other federal, state or local law that promotes fair housing or prohibits discrimination, the Secretary would be required to ensure that funds made available under this title are used to carry out court-ordered remedies, except for fines or penalties. The same restrictions would apply to cases in which a settlement has been entered into where violations of those provisions of law have been claimed.

Tenant and participation protections: The Committee bill includes prudent protections for tenants of housing assisted under this title. First, the lease between a tenant and owner of HOP-assisted affordable housing would be for no less than 1 year, unless by mutual agreement between the owner and tenant. The lease would have to include terms and conditions that the Secretary deems appropriate.

Second, leases would have to require tenants, their guests and members of their household to refrain from any activity that adversely affects any other tenant's health, safety, or right to quiet enjoyment of the premises. Tenants would be prohibited from engaging in criminal activity, specifically including drug-related criminal activity, that threatens the health or safety of, or the right to quiet enjoyment of the premises by other tenants, and such criminal activity would be cause for termination of the tenancy.

Third, an owner would be prohibited from evicting or refusing to renew the lease of a tenant in HOP-assisted rental housing, except for serious or repeated violation of the terms and conditions of the lease, for violation of the law, or for other good cause. An owner could evict a tenant or refuse to renew the lease only after giving the tenant written notice that describes the grounds for the action.

Fourth, an owner would have to keep the property properly maintained and in compliance with all housing quality standards and code requirements.

Fifth, owners of HOP-assisted rental housing would be required to adopt written tenant selection policies and criteria that are (1) consistent with the purpose of providing housing for very low-income and low-income families and (2) reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease. Tenants shall be selected from a written list in the chronological order of their application, insofar as is practicable. This provision is intended to provide reasonable assurance to prospective tenants that they will have a fair opportunity to be accepted for residency and will not arbitrarily be passed over through favoritism. The requirement for notification is intended to apply only in the case of a prospective tenant whose application is considered in sequence and not approved. The requirement is not intended to impose unreasonable costs on management of projects that have long waiting lists by requiring written notice to prospective tenants whose applications remain pending when vacancies have been filled.

The Committee is aware that successful CHDOs often develop affordable housing with the expressed intent of serving residents of the neighborhood in which the housing is located and with which the CHDO has been working. The tenant selection procedures of such CHDO projects may give preference to residents of the designated neighborhood and include extensive interviews of prospective tenants to determine whether they will be good tenants and members of the community. Section 326(d) is not intended to prohibit such practices where they are consistent with guidelines the Secretary shall establish to ensure that such practices (1) are consistent with the long-term achievement of the purposes of this title and (2) do not contribute to housing discrimination prohibited under this title.

Monitoring of Compliance: Each participating jurisdiction would be required to ensure long-term compliance with the provisions of this title, through measures that provide for enforcement of the provisions of this title by the jurisdiction or by intended beneficiaries.

Each participating jurisdiction would be required to review owner performance under this title at least annually. The results of this review would have to be included in the jurisdiction's annual performance report to the Secretary.

Transition rule for rental rehabilitation: Rental rehabilitation is one of the programs that would be consolidated into HOP. To provide for smooth transition and prevent disruption of ongoing housing rehabilitation efforts the Secretary would set aside $133,000 of HOP funds in fiscal years 1991 and 1992—the amount appropriated for the rental rehabilitation program in fiscal year 1990. These amounts would be used in accordance with the rules and regulations of the rental rehabilitation program in effect as of the enactment of the Act.

### *Subtitle B—Mortgage Credit Enhancement*

Establishment of the Commission on Credit Enhancement: The Committee bill would create a temporary Commission in Credit Enhancement to conduct a 9-month study of ways in which financing for affordable housing may be made available most efficiently, particularly to facilitate the implementation of comprehensive housing affordability strategies. The Commission would be expected to draw upon expertise from a broad representation of State and local government, State and local housing finance agencies, federal agencies, government-sponsored mortgage finance corporations, forprofit and nonprofit housing developers, private financial institutions, and sources of long-term mortgage investment. The Commission would be subject to the provisions of the Federal Advisory Committee Act.

Composition of the Commission: The Commission would be composed of 15 members, each with expertise and broad experience related to mortgage finance of affordable housing.

Appointments would have to be made within 6 months of the enactment of the Act. Five of the members would be appointed by the Secretary. Five would be appointed by the Chairman and Ranking Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate. Five would be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Not more than 8 members could be from any one political party.

Membership would include (1) not less than 3 persons who have distinguished, private sector careers in the housing finance, management or development industries, (2) not less than 3 persons from State government who have made outstanding achievements in housing finance or development, (3) not less than 3 persons from local government who have made outstanding achievements in housing finance or development, (4) not less than 3 persons who have backgrounds of leadership in representing the interests of low-income tenants, and (5) not less than 3 persons who have achieved excellence in nonprofit housing development.

The Commission would submit its report including any recommendations for legislative or administrative action to the Secretary and the Congress. The report would make provision for minority views.

The study would first consider the need for HUD, government-sponsored mortgage finance corporations, or other federal agencies to provide partial credit enhancement to make financing for affordable housing available efficiently and at low cost. Second, the study would consider alternative ways in which (1) HUD could provide participating jurisdictions with any needed credit enhancement on a one-stop basis in coordination with other forms of assistance under this subtitle, (2) HUD or other federal agencies could assist government-sponsored mortgage finance corporations in the financing of mortgages on affordable housing through mortgage-backed securities that are more standardized and readily traded in the capital markets, (3) the capabilities of existing federal agencies could be used to provide mortgage finance for affordable housing more efficiently through government sponsored mortgage finance corporations, and (4) the federal government's interests could be protected and any risks of loss could be minimized either through requirements for fees, mortgage insurance, risk-sharing, secure collateral, and guarantees by other parties or through standards relating to minimum capital and prior experience with underwriting, origination and servicing.

## *Subtitle C—Other Support for State and Local Housing Strategies*

Authority: The Committee bill would authorize the Secretary to develop the capacity of housing partnerships among participating jurisdictions, State and local housing finance agencies, nonprofit organizations and for-profit corporations to identify and meet the needs for an increased supply of decent, affordable housing.

Priorities for capacity development: The Committee identifies several priorities for this capacity development. They include activities that (1) facilitate the exchange of information that would speed the transfer of advanced on program design, housing finance, land use controls, and building construction techniques, (2) strengthen the ability of states and local governments to carry out effective housing affordability strategies, (3) increase the ability of community housing development organizations to maintain, rehabilitate or construct low-income and moderate-income housing, particularly in areas that have substantial need and inadequate resources to produce such housing, (4) encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of the title, (5) increase investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates for the development of low-income housing and to low-income homebuyers, (6) support locally initiated efforts to establish privately owned, local community development banks and credit unions to finance affordable housing, and (7) improve the ability of states and local governments, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction and operation of affordable housing.

Contracting for services: The Committee intends that, insofar as is practicable, this capacity building shall be provided not by federal employees but through contract with well-established organizations that have (1) expertise in advanced housing development techniques and (2) experience in training public and private management. Such organizations could include (1) a participating jurisdiction, (2) a public purpose organization, such as a state or local housing finance agency, (3) an agency established by two or more participating jurisdictions, (4) a national or regional non-profit organization, such as the National Govrnors' Association, the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the National Council of State Housing Finance Agencies, the Association of Local Housing Finance Agencies, and the National Association of Housing and Redevelopment Officials, and (5) other leading organizations that meet qualifications specified in the bill, such as the Neghborhood Reinvestment Corporation, the Enterprise Foundation, the Local Initiatives Support Corporation, the Housing Assistance Council, and the National Low-income Housing Coalition.

The Committee intends that assistance under this subtitle shall be used to encourage already capable organizations to expand and redirect their efforts in support of the purposes of this Act and that the assistance not be used to create new technical assistance organizations. To achieve that purpose, the Committee bill would permit multi-year contracts but for periods that do not exceed 3 years. The bill would also prohibit assistance under this subtitle from providing more than 20 percent of the operating budget of a contracting organization solely for distribution to community housing development organizations pursuant to section 352(3) would not be counted toward that limitation. No one organization could receive contracts for more than 20 percent of the funds appropriated under this subtitle in a fiscal year.

Technical assistance to nonprofits: Technical assistance to nonprofit community housing development organizations under section 352(3) could not be for more than 50 percent of the costs of preparing approvable applications for HOP assistance and FHA insurance.

Technical assistance would be limited to customary and reasonable project preparation costs, including costs related to (1) market and financial feasibility studies, (2) the engagement of a development team, which may include costs not directly related to the development of a specific if the Secretary finds that such costs are important to the achievement of the purposes of this title, (3) preliminary design and engineering costs, (4) site control and title clearance, (5) cost estimation and (6) other professional costs related to the development of housing, including the retention of expert staff. Contracting organizations would be required to provide matching funds from non-federal sources equal to 50 percent of the eligible costs under the contract. The matching contributions could be for costs of (1) eligible technical assistance, (2) identification, screening and counseling of prospective residents, and (3) ongoing administrative and planning costs that are related to the project and the ongoing provision of affordable housing in the area to be served by the project. The Committee bill makes it clear that technical assistance to a community housing development organization is to be taken into account when the Secretary makes adjustments to housing assistance as required under section 102(d) of the Department of Housing and Urban Development Reform Act of 1989.

Research in Housing Affordability: The Secretary would be authorized to support research in support of the purposes of this title, including ongoing analysis of the impact of public policy—at the federal, state and local levels—on the incentives to expand and maintain the supply of energy-efficient affordable housing, particularly in areas with severe problems of housing affordability. Federal agencies, government-sponsored mortgage finance corporations and qualified research organizations would be eligible to carry out this research.

### *Subtitle D—Specified Model Programs*

The Committee bill would specify several programs to be included on the "shelf" of model programs that the Secretary would make available to participation jurisdictions. With respect to each of these specified model programs, as with other model programs authorized under section 313, (1) the Secretary would be required to suggest detailed guidelines, procedures, forms, and model legal documents and (2) participating jurisdictions would be in general be authorized to adapt details of the model programs to local conditions. The Secretary would be expected to maintained these model programs under ongoing evaluation and refinement.

The Committee specfied three model programs to ensure continuity of housing activities at the local level.

Rental Rehabilitation: One model program would be patterned after the rental rehabilitation grant program authorized under section 17 of the Housing Act of 1937. HOP funding would be used to rehabilitate privately-owned rental housing in stable, moderate-income neighborhoods. The subsidy would be moderate and would not exceed 50 percent of the rehabilitation costs. Owners would have to agree not to discriminate against voucher holders for at least 10 years.

Rehabilitation loans: A second model program would be patterned after the rehabilitation loan program authorized under section 312 of the Housing Act of 1964. HOP funding would be used for direct loans to rehabilitate low-income and moderate-income housing. The Secretary would establish terms and conditions to ensure that loans are acceptable risks and may establish suggested interest rates for loans. Model program guidelines may also require that the property be (1) located in a distressed area, (2) an owner-occupied residence, (3) in need of rehabilitation to meet code requirements consistent with a local plan for rehabilitation or code enforcement.

Sweat Equity: A third model program would permit HOP to enable nonprofit organizations to train and supervise low-income families in self-help housing acquisition, rehabilitation and construction consistent with provisions of section 523 of the Housing Act of 1949. The model program would target housing that has come into government ownership. The Committee is aware of the benefits of "sweat equity", taking into account, in lieu of cash contributions, the value of skilled or unskilled labor that is contributed to the improvement of rental or homeownership housing by eligible low-income families.

*Subtitle E—General Provisions*

Nondiscrimination: The Committee bill would prohibit discrimination on the basis of race, color, national origin, age, sex or handicap with respect to any program or activity supported under this title.

Annual audits: The Committee intends that management information and financial accounting systems utilized to carry out this title—not only with HUD, but also by each participating jurisdiction—shall conform to state-of-the-art standards designed to facilitate effective oversight, to support sound management and to avoid program abuse. The Committee considers timely auditing of activities under this title to be vital to achievement of the purposes of this act.

First, the Committee bill would require the Secretary to contract with an independent auditing firm for a full financial audit of the records of the Housing Opportunities Partnerships (HOP) program for each fiscal year. The audit would have to be performed as soon as practicable after the close of each fiscal year and in accordance with generally accepted government auditing standards approved by GAO. The audit report would have to be submitted promptly to Congress and published.

Second, the Committee bill would authorize GAO, on its own or when requested by the Senate or Housing Banking Committee, to conduct a full financial audit of the records of HOP, which would substitute for the independent audit that would otherwise be required. The GAO report would be submitted promptly to the Secretary and Congress and published.

Third, the Committee bill would authorize GAO to audit financial transactions of participating jurisdictions or of any other recipient insofar as the transactions relate to funds provided under this title. GAO would be given access to all relevant books, accounts, records, reports, files, and other papers, things, or property belonging to or used by such recipients.

Uniform recordkeeping and reports: The Committee bill would require the Secretary to develop and establish uniform recordkeeping, performance reporting, and auditing requirements to be used by participating jurisdictions. The Secretary would submit an annual report to Congress that summarizes the reports of the participating jurisdictions.

Citizen participation: Citizen participation requirements specified under section 105(i) would apply fully to HOP.

Labor: The Committee recognizes the challenge of providing affordable housing in ways that do not violate long-established federal policies in support of fair construction wages. The Committee bill applies Davis-Bacon prevailing wage standards to newly constructed affordable housing where 12 or more units are assisted with HOP funds. These requirements would not apply to units within a mixed-income project other than the units qualifying as affordable housing within such project. The Secretary would be authorized to waive the applicability of Davis-Bacon in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such housing, voluntarily donate their service without full compensation for the purpose of lowering the costs of construction. The Secretary would have to determine that any amounts saved by such donations have the effect of lowering the cost of the housing to eligible families by being fully credited to the corporation, cooperative, or public body or agency undertaking the construction.

Interstate agreements: The Committee bill would confer the Congressional consent that is required for two or more states to enter into agreements or compacts for cooperation and mutual assistance in carrying out the purposes of this title. States would be authorized to established interstate agencies to carry out HOP activities.

Environmental review: The Committee bill would authorize HUD to confer upon participating jurisdictions responsibility for ensuring that HOP activities are compliance with policies of the National Environmental Policy Act of 1969 and other provisions of law that further the purposes of that Act. As has been done successfully under the Community Development Block Grant program, participating jurisdictions would be required to establish compliance with requirements of laws to protect the environment and to certify such compliance in accordance with procedures satisfactory to the Secretary.

## TITLE IV—HOPE GRANTS

The Committee believes the Administration's HOPE Initiative can be a key component of an effective national housing policy and therefore has incorporated almost all of the Administration's legislative proposals with refinements. Provisions of Title IV are intended to provide public housing tenants and other low-income families with homeownership and other benefits deriving from ownership of housing. The Committee has included these provisions in the conviction that important components of federal housing programs should help low-income families improve their economic and housing opportunities. The provisions of the HOPE Initiative are described in the following pages.

The Committee has heard from many experienced housing observers and elected officials that national housing policy must do more than transfer ownership of existing housing. In a time of fiscal constraint, scare housing resources should not be diverted from pressing housing needs, including providing assistance to needy families who have been on waiting lists, expanding the supply of affordable housing, preserving the existing low-income housing inventory and relieving the suffering of homeless persons.

Responsible observes have expressed concern about the paucity of hard information on the long-term costs and benefits of selling public and assisted housing to low-income tenants. The Committee itself was troubled by the Administration's repeated refusal to release a major report on the results of the Public Housing Homeowership Demonstration before markup of the Committee bill. This demonstration, using authority contained in Section 5(h) of the

United States Housing Act of 1937, was implemented in 1985 to test a variety of approaches for enabling public housing tenants to purchase their units. As of the date of markup on the Committee, bill, the Committee had not received any information on the demonstration's long-term findings. For example, HUD had made available no solid information from the demonstration on such important matters as (1) the long-term ability of low-income purchasers to support mortgage and maintenance costs, (2) the impact of the public housing sale on the economic condition of low-income purchasers, or (3) the affect of the change in ownership on the management and maintenance of the housing.

To help fill this information vacuum and enable the Committee to weigh various claims and counter-claims, the Housing Subcommittee asked the General Accounting Office to study the sale of the Kenilworth-Parkside project in the District of Columbia, generally upheld by the Administration as a model for future homeownership conversions. That sale is proceeding under the public housing homeownership program authorized under Section 123 of the Housing and Community Development Act of 1987. GAO released its report in December, 1989 and identified significant public policy concerns relating to (1) the use of resident management corporations as conduits for sales to tenants; (2) the use of a transferred project as collateral for borrowing, which potentially could endanger the low-income status of the property and expose the Federal government to unanticipated risk; and (3) diversion of other housing resources to support homeownership programs.

The Committee believes that concerns raised by GAO and others can be resolved with careful legislative design and oversight. The Committee bill is intended to achieve that and to give HOPE and important place in a new national housing policy.

### *Subtitle A—HOPE Grants for Public and Indian Homeowership*

*In General.*—The Committee bill would include the Administration's proposal to create a program of HOPE grants for public housing homeownership. The program would significantly expand the number of public housing tenants who can purchase their units.

The Committee received substantial testimony—through witnesses, the report of the National Housing Task Force, the MIT studies and other sources—establishing the gap between the millions of low-income families that are in dire need of affordable housing and the supply of homes that they can afford, even with HUD assistance. The Committee is therefore reluctant to approve actions that will have the net effect of reducing in any way the total supply of housing that is affordable to very low-income, low-income, and moderate-income families. However, the Committee recognizes and commends the efforts of tenants, public housing agencies, nonprofits and others who are devising ways for residents of government-assisted housing to gain a greater degree of control over their homes and to open opportunities for public housing residents to become homeowners. The Committee bill reflects the Committee's support for these efforts and the Committee's determination not to make it even more difficult for needy families who have long been on a waiting list for housing assistance.

The Committee, on the basis of bipartisan discussions, made five major refinements to the Administration's proposal.

First, the Committee bill in essence affirms the policy of replacing sold public housing. The Committee bill requires one-for-one replacement in all cases, except that 5-year vouchers from a separate replacement account could be used for replacement in certain places. The Administration proposal required the replacement of sold public housing units only where no restrictions were placed on resale of units to low income buyers. That would have led to a considerable loss of housing that until now has been reserved for the very poor.

The Committee also considered and rejected the Administration proposal that would have allowed units developed with low-income housing tax credits to qualify as replacement housing. The Committee believes strongly that replacement units be authorized and funded from special accounts in a timely manner. Only in that fashion can replacement of lost units be assured.

Second, the Committee bill responds to a number of concerns raised by GAO's study of the Kenilworth-Parkside sale and Section 123 of the 1987 Act (under which the sale is proceeding). The Committee bill provides guidance to ensure that individual tenants would become homeowners in a timely manner. GAO found that, under the 1987 Act, properties could be sold without any assessment of whether ownership was feasible in a particular project and any guarantee that the resident management corporation would actually transfer ownership to tenants within a reasonable period of time.

The bill also places restrictions on project financing to preserve the low-income character of public housing earmarked for conversion to tenant ownership and minimize the potential financial exposure of the local and federal government. GAO concluded that the 1987 Act did not prohibit a resident management corporation from using the underlying real estate as collateral for borrowing. RMCs and their advisers were purportedly contemplating a range of deals—converting the fixed assets of low-income housing into liquid assets, converting a tenant management's equity into long-term debt, engaging in tax-related syndications—that were never contemplated by Congress. Major concerns were raised about the potential for loss of transferred public housing projects through defaults, foreclosures or poorly designed joint venture arrangements. Any such potential for fraud and abuse should be removed in the statute.

The Committee bill allows public housing operating subsidies to be provided to a project after it is sold to a resident council. GAO found that the need for operating subsidy would not end with the transfer of the Kenilworth project to the resident management corporation. The Department's decision to divert Section 8 funds from their intended use raised the specter that public housing conversions would divert housing assistance from needy families on long waiting lists.

Third, the Committee bill prohibits the use of Federal block grants (CDBG, rental rehabilitation, McKinney funds) and low-income housing tax credits as qualifying matching funds. The Administration proposal would have allowed such use, siphoning off scarce resources from other urgent needs and permitting a recurrence of the "double dipping" and "layering" abuses that characterized the Moderate Rehabilitation scandal.

Fourth, the Committee bill ensures that housing sold with federal subsidies would remain available to low-income families. The Administration placed limited restrictions on resale, raising the possibility that the initial purchasers would reap windfalls at the expense of other low-income tenants. The Committee expects the Secretary to establish regulations governing the resale of public housing units converted to homeownership to subsequent buyers, and limitations on profits that purchasers may realize from these scarce public resources, that reflect the Committee's goal of expanding, and not reducing, the overall supply of homes and housing opportunities that are affordable to those most in need.

Fifth, the bill consolidates into HOPE those public housing homeownership programs that exist under current law: Sections 5(h) and Section 21 of the United States Housing Act of 1937. As proposed, the HOPE initiative would have been an addition to current law and the existing programs would have remained in force. The Committee was concerned that retention of three different authorities for public housing conversions would cause unnecessary complexities, ambiguities and inefficiencies and, therefore, decided to merge the programs.

*General Program Authority.*—Section 301 of the proposed new title III to the United States Housing Act of 1937 would authorize the Secretary to make two different kinds of grants to eligible applicants for homeownership programs. First, planning grants could be made to develop homeownership programs. Second, implementation grants could be made to carry out these programs.

The section would restrict the amount of funding that could be made in any one fiscal year for planning grants to $2 million. The Committee has limited funding for planning grants for three reasons. First, the Committee believes strongly that primary emphasis in the program should be placed on implementation. The Committee is determined to avoid the spectacle of consultants receiving millions of dollars in scarce federal housing assistance, particularly in the aftermath of the Moderate Rehabilitation scandal and in the midst of an affordable housing crisis. Second, the Committee estimates that the authorization should adequately cover the likely number of projects that will move towards homeownership in the coming fiscal years. A funding level of $2 million will allow the Department to assist at least 20 applicants in the preparation of homeownership programs. Third, the bill would allow implementation grants to be used for architectural and engineering work, administrative costs, legal fees, counseling and training costs. The Committee is concerned that the lion's share of HOPE grants would be used for "soft" costs—not directly benefitting tenants—if the bill allowed too large a percentage of total appropriations to be used for planning grants. For this reason, the Committee did not accept the Administration's recommendation that 15 percent of all HOPE funds be used for planning.

The section would also authorize the Secretary to reserve voucher and certificate rental assistance to assist non-purchasing tenants in moving to another project. Assistance for non-purchasing tenants would be limited to those tenants who reside in the project at the time HUD approves the implementation grant.

This section would authorize $50 million for HOPE funding for grants for fiscal year 1991; $75 million in fiscal year 1992; and $100 million in 1993 for these purposes. Given the experience under the existing public housing homeownership program—where the pace of sales has been exceedingly slow—these funding levels should more than amply serve the number of likely transfers.

*Planning Grants.*—The Committee bill, as described above, would authorize separate funding for the planning stage. The Committee believes that detailed planning is necessary for a successful homeownership project. Rehabilitation needs must be identified; financial viability assessed; and the tenants prepared to assume homeownership roles. The Committee bill would give tenant groups the time and funding they need to prepare applications for conversion, rather than tying up funds for wholesale conversions for long periods of time. Thus, only when a group feels it has developed an affordable housing conversion plan will it apply to implementation funding. However, the receipt of a planning grant should not be a precondition for application for an implementation grant. An applicant which has fully planned a homeownership program could apply directly for an implementation grant.

Section 302 would create the framework for the planning grant component. It would establish eligible activities, application requirements, and selection criteria. The section-by-section analysis outlines in detail the contents of this section.

Two aspects of the Committee bill are of particular note. First, the bill would require applications for planning grants to include a certification by the state or local government that the proposed homeownership activities are consistent with the approved housing strategy of the State or locality in which the project is located. Such certifications of consistency would be required for every Federal housing activity that occurs within the boundaries of State and local jurisdictions that participate in the Housing Opportunity Partnership (HOP) program. Such certifications are particularly appropriate in the context of HOPE sales of public housing, since they would ensure that (1) a community's scarce low-income housing stock would not be lost through unilateral HUD action and (2) the required non-federal matching funds would be provided.

Second, the bill would place a cap of $100,000 on planning grants that are awarded with respect to any public housing project. The $100,000 cap mirrors the limitation that Section 20(f) of the Housing and Community Act of 1987 places on technical assistance for resident management corporations.

*Implementation Grants.*—Section 303 would create the framework for the implementation grant component. It would establish eligible activities, matching requirements, application procedures, and selection criteria. The section-by-section analysis outlines in detail the contents of this section.

Three aspects of the Committee bill are of particular note. First, the Committee bill would require that not less than 25 percent of the amount of an implementation grant be matched from non-Federal sources. The Committee has carefully deliberated over the percentage match, balancing (1) the need for State and local contributions with (2) the resources that such levels of government have available and can realistically be expected to provide. It believes that the same percentage match—25 percent—should govern both the HOP and the HOPE programs.

The Committee bill would also adopt the HOP definition of qualified matching funds. Matching contributions could be in the form of (1) cash contributions from non-federal sources, which could not include Federal tax expenditures (e.g. low-income housing tax credits) Community Development Block Grants, (2) payment of administrative expenses, which could include payments from a Community Development Block Grant, (3) the value of taxes, fees, or other normal and customary charges that are waived, forgone or deferred in a manner that facilitates implementation of a homeownership program; (4) the value of land or other real property (5) the value of investment in needed on-site and off-site infrastructure, or (6) other in-kind contributions that the Secretary may approve.

The Committee has considered and rejected allowing scarce Federal resources like Community Development Block Grants and low-income housing tax credits to be deemed "non-Federal sources" for purposes of a match. The Committee believes that making such programs eligible for matching requirements would hide the true cost of converting public and assisted housing to resident ownership. It would also drain needed resources away from already strapped programs which are now used to achieve vital national housing objectives like neighborhood revitalization and affordable housing development.

Second, as with planning grants, the bill would require applications for implementation grants to include a certification that the proposed homeownership activities are consistent with the approved housing strategy of the State or locality in which the project is located.

Third, the bill would require applications to include a workable plan for giving all tenants an opportunity to become owners. Such plan would identify a number of important elements, including the price at which individual units or shares would be sold, the factors that would influence the setting of such price and the financing arrangements the tenants would be expected to pursue or be provided.

This provision emanates from GAO's study of the proposed sale of the Kenilworth Parkside project in the District of Columbia. The study noted that the Section 123 public housing homeownership program authorized by the 1987 Housing Act was completely silent on two fundamental issues; namely, how particular units or shares in a tenant cooperative woud actually be sold to individual tenants and how long a resident management corporation could operate a property as rental property before beginning sales to tenants. As the GAO concluded, "[w]e believe the goal of the ownership program is for tenants to purchase dwelling units. If this goal is not realized, residents continue as renters and the concept of tenant ownership becomes little more than a continuation of tenant management."

GAO concluded that HUD should require an assessment of the feasibility of ownership by the families residing in a public housing development before the sale of the property to a resident management corporation takes place. The "workable plan" provision has been included in response to GAO's analysis and recommendation.

The Committee believes that the availability of implementation grant moneys for legal and consulting fees should be carefully limited. In light of the recent HUD scandals involving excessive fees charged by consultants and lawyers under the Moderate Rehabilitation program, HUD must ensure that fees to consultants and lawyers be held to a bare minimum. The Committee strongly believes that to the maximum extent practicable to provide HOPE Grants for Public and Indian Homeownership should be used to acquire and rehabilitate properties covered under this program.

*Program Requirements and Limitations.*—Section 304 would establish the basic requirements and limitations under which homeownership programs would operate.

Location Within Participating Jurisdictions: The Committee bill would allow the Secretary to approve applications for planning and implementation grants only for public housing projects that are located within participating jurisdictions. The Committee believes strongly that public housing should be sold to tenants only in jurisdictions where the State or local government is taking responsibility for its housing problems.

Financing: The Committee would require the application to identify and describe the proposed financing for rehabilitation of the project, the sale of units to eligible families and the sale of the project from the PHA to another entity for subsequent resale to the families. Financing could include use of the implementation grant, conventional mortgage loans, FHA-insured mortgages, cash or other financing mechanisms.

The Committee bill would also place restrictions on project financing to preserve the low-income character of public housing earmarked for conversion to tenant ownership and minimize the potential financial exposure of the local and federal government. The GAO study on Kenilworth Parkside revealed that the 1987 Housing Act Homeownership program did not prevent resident management corportions from using their property as loan collateral or conveying an equity interest in the property to a partnership. These arrangements might be made with the best of intentions: to finance entrepreneurial activities to help tenants become self-sufficient. Yet, as the GAO concluded, "[i]f financially mismanaged, these arrangements could lead to the property either being (1) lost to creditors, thereby jeopardizing its low-income status or (2) repurchased at federal expense, in order to preserve its low-income status."

GAO recommended that the public housing agency be given the first right to repurchase the property by satisfying any lien on the property in the event the resident management corporation is unable to meet its financial obligations. The bill would contain a similar provision, requiring that a lender be required to give the public housing agency, resident management corporation or other appropriate entity a reasonable opportuity to cure a financial default before foreclosing on the property or taking other action.

The Committee, however, does not believe that such protection is adequate. Local governments would simply be compelled to "eat" any financial loss or lose the housing, hardly an optimum set of alternatives. In the event of threatened foreclosure, it is most likely that government officials would be under enormous pressure to avoid grave embarrassment by diverting scarce low-income housing resources to bail out a troubled project. The right to "buy back" a former public housing project hardly limits the government's financial exposure.

The Committee bill would thus go further by prohibiting a transferred public housing project from being pledged as collateral for debt or otherwise encumbered unless the Secretary makes certain findings. In particular, the Secretary would need to find that (1) such encumbrance would not threaten the long-term availability of the property for low-income use; (2) neither the Federal Government nor the public housing agency would be exposed to undue risks; (3) any borrowing can be supported by project income; and (4) the proceeds of any borrowing would be used only to meet the required housing standards (see below) or to otherwise make capital improvements to the property.

Housing Standards: The Committee bill would require that public housing projects transferred under this title meet housing standards established by the Secretary. The Secretary would be given the discretion to give an applicant, in response to a written plan, up to 3 years to bring the project in conformance with such standards. Passage of title would await completion of the necessary renovation work.

The Committee believes that requiring the public housing agency to retain title will serve as an important incentive to prospective owners to complete rehabilitation efficiently and expeditiously. In addition, retention of title will facilitate the process of repossession in the event that a recipient fails or refuses to meet its obligation to rehabilitate the property up to housing standards.

Qualified Management: The Committee bill would require that, as a condition of approval of a homeownership program, the resident management corporation (or other entity representing the tenants' interests) demonstrate its abilities to manage public housing by having done so effectively and efficiently for at least three years or by entering into a contract with a qualified management entity. The Secretary would establish standards for such entities to ensure that properties will be maintained in a decent, safe and sanitary condition. This provision reflects part of the effort to consolidate all existing public housing homeownership programs within this subtitle. The existing Section 123 homeownership program requires resident management corporations to have three years of relevant management experience as a prerequisite for ownership. This provision is an expansion upon existing law since it also allows RMCs which use qualified management entities to meet the test.

Economic Self-Sufficiency Plan: The Committee bill would require that, if section 9 assistance is requested for use by homeowners, the applicant must provide an economic self-sufficiency plan designed to reduce the need for assistance. This plan would include training, employment and supportive services in order to help families raise their incomes to the point where they no longer need housing assistance. The plan would specify an estimated target date for phasing out the assistance.

Sale by Public Housing Agency: The Committee bill would give approved applicants (or another entity specified in an approved application) a right to buy the project from the public housing agency. If an applicant other than the PHA is awarded an implementation grant under terms approved by HUD, the PHA would be required to agree to the transfer of the project.

Preferences: The Committee bill would establish preferences for purchase of public housing units. Current tenants would receive a first preference and families who have completed participation in Project Independence or another economic self-sufficiency program receive a second preference. This latter group would be given a preference because of the Committee's interest in enabling those who participate in Project Independence and similar programs to reap the full benefit of their initiative, including the opportunity to become homeowners.

Cost Limitations: The Committee bill would authorize the Secretary to establish cost limitations for any eligible activity, including, for example, the cost of rehabilitating the units.

Annual Contributions: The Committee bill would require the Secretary to continue the payment of debt service on projects sold under this program. This provision reflects part of the effort to consolidate all existing public housing homeownership programs within this subtitle. Section 123(a)(7) of the Housing and Community Development Act of 1987 contained an almost identical provision.

Operating Subsidies: The Committee bill would authorize public housing agencies, from amounts made available for use under section 9 of the United States Housing Act of 1937, to provide assistance for the operating costs of an approved homeownership program after transfer under this title, to the extent that the total income of this project is not sufficient to cover the costs of operation. The assistance would be paid on an annual basis, and could not exceed an amount for each year that is equal to the annual operating subsidy determined under section 9 of the 1937 Act with respect to the project for the year before its sale under this title, plus an annual inflation adjustment determined by the Secretary.

In light of the GAO study on Kenilworth-Parkside, the Committee has considered and rejected using section 8 rental assistance to subsidize the post-sale operating costs of an approved homeownership program. GAO found that Section 8 certificates would be needed for all tenants living in the Kenilworth-Parkside development after transfer of the project. Those Section 8 certificates would normally have gone to the most needy families in the jurisdiction—e.g. families living in homeless shelters or paying more than 50 percent of their income for rent. In addition, public housing operating subsidies that would normally have gone to support the Kenilworth-Parkside project would be cut.

The Committee believes strongly that the perverse results of the Kenilworth sale—cutting operating subsidies and diverting Section 8 from other very-low income families—should not be repeated.

Use of Proceeds from Sales to Eligible Families: The Committee bill would authorize the entity that sells the units to eligible families to use one-half of the proceeds from such sales for costs of the homeownership program, including improvements to the project, business opportunities for the families and supportive services related to the homeownership program. Proceeds could also be used for additional homeownership opportunities and other activities approved by the Secretary. The remaining one-half would be returned to HUD for use in the program. The Committee bill would also, as part of the effort to consolidate all existing public housing homeownership programs within this program, incorporate the existing Section 123 requirement that the resident entity keep and make available to the Secretary all records necessary to calculate the payments that are owed the Secretary under this provision.

Restrictions on Resale: The Committee bill would permit a tenant owner to transfer his or her ownership interest only (1) to low-income families and (2) at a price established in accordance with HUD guidelines that provide each owner with a fair return on investment, including any investment in improvements, and ensure that the housing will remain affordable to a reasonable range of low-income homebuyers. The proposal would give a resident management corporation or resident council a right of first refusal to purchase a unit.

The Committee intends that the investment of HOPE funds shall provide benefits for subsequent potential homebuyers who qualify as low-income families, rather than benefits only for the initial purchasers of the homes. The objective of this title is to expand long-term homeownership opportunities for public housing residents and families who qualify for public housing. Since to do so HOPE will make homes available at prices substantially below market, failure to ensure ongoing affordability would permit large windfall gains to a fortunate few and would create temptations for abuse.

The Committee bill would also limit any undue profit which the initial purchaser could receive upon selling the unit. Generally, initial purchasers could be permitted to buy their units for less than market value, since they might be unable to afford to pay the full market value. Without provisions for recapturing undue profit, homeowners might be able to sell their units immediately and realize a gain not commensurate with their effort or commitment to the housing and neighborhood.

Applicants would be given flexibility to structure the recapture provisions in a variety of ways. Four options would be delineated in the legislation.

While any option chosen would be required to provide for recapture of the subsidy provided to the homeowner for a period of at least 10 years, arrangements would be permitted that would allow homeowners to benefit from appreciation in the value of the unit during the period in which they own it. If a homeowner has a financial stake in the property, he or she is more likley to keep it in good condition or even upgrade it. In addition, without some ability to gain from its investment in homeownership, a family would be unlikely to have sufficient funds for a downpayment on a subsequent unit. On the other hand, families should not be able to reap undue profits simply by happening to live in a project that is converted to homeownership. Families should be expected to put something into their homes before they receive any benefits.

The Committee bill would also, as part of the effort to consolidate all existing public housing homeownership programs within HOPE I, incorporate the Section 123 requirement that the appropriate entity ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

Finally, the Committee bill would require 50 percent of the funds recaptured under the undue profit provisions to be provided to the appropriate resident entity for costs of the homeownership program, including improvements to the project, business opportunities for the families and supportive services related to the homeownership program. Proceeds could also be used for additional homeownership opportunities and other activities approved by the Secretary. The remaining one-half would be returned to HUD for use in the program. The Committee bill would also, as part of the effort to consolidate all existing public housing homeownership programs within this program, incorporate the existing Section 123 requirement that the resident entity keep and make available to the Secretary all records necessary to calculate the payments that are owed the Secretary under this provision.

Replacement Plan: The Committee bill would prohibit public housing projects from being transferred under this title unless the Secretary has agreed to make available to the local public housing agency Federal assistance sufficient to enable a one-for-one replacement of transferred units. The bill would permit replacement housing to consist of: (1) development of new public housing; (2) rehabilitation of vacant public housing units; (3) use of 5-year tenant-based assistance; (4) the use of a State or local program that is comparable to any of the Federal programs; (5) the acquisition on non-publicly owned housing units by a resident entity to be operated as rental housing comparable to public housing; or (6) any combination of such methods. The bill would require that "Federal" replacement units ((1), (2) and (3) above) be funded from special accounts in order to be counted towards the one-for-one replacement rule. The bill would also permit 5-year tenant based assistance to be counted as replacement housing only if the Secretary finds that replacement with new or rehabilitated public housing is not feasible and that the supply of private rental housing in the relevant community is adequate.

Protection of Nonpurchasing Families: The Committee bill would prevent non-purchasing families from being evicted because of a homeownership program. If a tenant decides not to purchase a unit or is not qualified to do so, the recipient would have to permit income-eligible tenants to reside in the project (paying no more than 30 percent of adjusted income for rent). If an income-eligible tenant decides to move, the local PHA would have to offer such tenant a unit in another public housing project or section 8 assistance for use in other housing and the recipient would have to pay relocation (moving) expenses. The Committee bill would also, as part of the effort to consolidate all existing public housing homeownership programs within HOPE I, incorporate the Section 123 requirement that tenants renting a unit in a public housing project transferred under this title would have all rights provided to public housing tenants.

Dollar Limitation on Economic Development Activities: The Committee bill would provide that not more than an aggregate of $250,000 from amounts made available for planning and implementation grants, and under the CIAP program under section 14 of this Act, may be used for economic development activities.

Timely Homeownership: The Committee bill would require recipients to transfer ownership of property to tenants within a reasonable period of time as established by the Secretary. The bill would also include rules governing tenant selection during the interim period when the property continues to be operated and managed as rental housing. Renters would continue to have all rights provided to public housing residents.

As with the requirement that applications contain a "workable plan", this provision responds to GAO's study of the Kenilworth Parkside sale. The study raised the possibility that resident management corporations could operate transferred housing as rental housing for long periods of time before selling individual units or shares to tenants. Further questions were raised in hearings about what rules would govern the activities of the RMC landlord during the interim period.

The Committee has concluded that the objective of resident ownership programs, quite simply, is to make residents owners. Resident councils should facilitate the conversion of projects to resident ownership as expeditiously as possible.

Access to Books and Records: The Committee bill would give the Secretary and the Comptroller General access to relevant books, documents and records for the purpose of audit and examination. Similar provisions are provided under Title III of the Stewart B. McKinney Homeless Assistance Act.

*HOPE and Indian Housing.*—Section 408 would apply the provisions of this subtitle to Indian housing authorities (IHAs). While references throughout the bill and the section-by-section description of the bill are to PHAs, all references would also apply to IHAs.

The Administration's HOPE initiative could be used to rehabilitate existing HUD financed homes that are vacant or purchase public housing in Indian areas. Since Indian areas suffer from a severe shortage of housing with very few vacant units in the inventory, it is expected that this program will have little impact in Indian areas. The Committee intends that matching requirements in the Administration's HOPE initiative be defined broadly for the purposes of Indian participation in the program to include contributions of land, labor, cash or materials or equipment as defined in Section 320 of the bill.

### *Subtitle B—HOPE for HUD Multifamily Homeownership*

*In General.*—The Committee bill would include the Administration's proposal to create a program of HOPE grants to fund the conversion of distressed multifamily properties to tenant ownership.

The Committee agrees with the Administration that this program can play a role in preserving the assisted housing inventory in decent, safe and sanitary condition. The Committee strongly disagreees, however, with the Administration's apparent conclusion that the HOPE initiative *is* the preservation strategy. Unlike the Administration, the Committee would authorize significant new funding for the Flexible Subsidy program—the major existing financing source for capital improvements in the older assisted housing inventory. The Committee is also actively exploring ways in which the tax code can provide incentives for preserving this inventory. Thus, the HOPE initiative is part of a larger preservation strategy in the Committee bill.

*General Program Authority.*—Section 411 would authorize the Secretary to make three different kinds of grants to eligible applicants of homeownership programs. First, technical assistance grants could be used for providing training and technical assistance to applicants. Second, planning grants could be made to develop homeownership programs. Third, implementation grants could be made to carry out these programs.

The section would restrict the amount of funding that could be made in any one fiscal year for technical assistance grants to $1 million and for planning grants to $1 million. The Committee has limited funding for these grants for three reasons. First, the Committee believes strongly that primary emphasis in the program should be placed on implementation. The specter of consultants receiving millions of dollars in the aftermath of the Moderate Rehabilitation scandal (and in the midst of an affordable housing crisis) should give all parties pause. Second, the Committee estimates that the authorization should adequately cover the likely number of projects that will move towards homeownership in the coming fiscal years. $1 million, for example, will allow the Department to assist at least 10 applicants in the preparation of homeownership programs. Third, the bill would allow implementation grants to be used for architectural and engineering work, administrative costs, legal fees, counseling and training costs. The Committee is concerned that the lion's share of HOPE grants would be used for "soft" costs if the bill allowed a significant percentage of total appropriations to be used for planning grants (the Administration recommended 15 percent).

The section would also authorize the Secretary to reserve certificate and voucher housing assistance for use in homeownership programs for two purposes: to assist homeowners with the costs of homeownership and to provide rental assistance for non-purchasing tenants. Post-sale subsidies would be available to low income families to assist them in affording the costs of homeownership. These subsidies would be available both to families who are living in the project at the time of sale and to eligible purchasing families who move in after sale and are unable to afford the costs of homeownership.

Certificates and vouchers would be provided to assist non-purchasing tennats remain in the project or move to another project with the assistance. Assistance for non-purchasing tenants would be limited to those tenants who reside in the project at the time HUD approves the implementation grant. If subsequent tenants moving into the project were permitted to be renters, full conversion might never occur. This restriction would promote the conversion of units from rental to homeownership status.

This section would authorize $25 million for HOPE funding for grants for fiscal year 1991; $35 million in fiscal year 1992; and $45 million in 1993 for these purposes. Given the experience under the existing public housing homeownership program—where the pace of sales has been exceedingly slow—these funding levels should more than amply serve the number of likely transfers.

*Technical Assistance Grants.*—The Committee bill, as described above, would authorize separate funding for technical assistance. The technical assistance would be provided, not just to potential sponsors of programs eligible for funding under this subtitle, but also to potential sponsors of homeownership programs for projects with owners who have filed notice of intent to prepay their FHA-insured multifamily mortgages and to potential sponsors of homeownership programs based on foreclosed FHA single family properties. There may be nonprofit organizations interested in sponsoring more than one type of homeownerhip program. In addition, the technical assistance developed by a particular grantee may well be applicable to more than one type of homeowernship program Therefore, it makes sense to set up a single program for technical assistance, rather than to fund a series of overlapping programs, with duplicative application processes and activities.

Section 412 would create the framework for the planning grant component. It would establish eligible activities, application requirements, and selection criteria. The section-by-section analysis outlines in detail the contents of this section.

One aspect of the Committee bill is of particular note. The bill would require applications for technical assistance grants to include a certifiation that the proposed homeownership activities are consistent with the approved housing strategy of the State or locality in which the project is located. Such certifications of consistency would be required for every Federal housing activity that occurs within the boundaries of State and local jurisdictions that participate in the Housing Opportunity Partnership (HOP) program.

*Planning Grants.*—The Committee bill, as described above, would authorize separate funding for the planning stage. The Committee believes that detailed planning is necessary for a successful homeownership project. Rehabilitation needs must be identified; financial viability assessed; and the tenants prepared to assume homeownership roles. The Committee bill would give tenant groups the time and funding they need to prepare applications for conversion, rather than tying up funds for wholesale conversions for long periods of time. Thus, only when a group feels it has developed an affordable housing conversion plant will it apply for implementation funding. However, the receipt of a planning grant should not be a precondition for application for an implementation grant. An applicant which has fully planned a homeownership program could apply directly for an implementation grant.

Section 413 would create the framework for the planning grant component. It would establish eligible activities, application requirements, and section criteria. The section-by-section analysis outlines in detail the contents of this section.

Two aspects of the Committee bill are of particular note. First, the bill would require applications for planning grants to include a certification that the proposed homeownership activities are consistent with the approved housing strategy of the State or locality in which the project is located. Such certifications are particularly appropriate in this context given the requirement that applicants finance a portion of program costs from non-Federal sources.

Second, the bill would place a cap of $100,000 on planning grants that are awarded with respect to any eligible property. The $100,000 cap mirrors the limitation that Section 20(f) of the Housing and Community Act of 1987 places on technical assistance for resident management corporations.

*Implementation Grants.*—Section 414 would create the framework for the implementation grant component. It would establish eligible activities, matching requirements, application procedures, and selection criteria. The section-by-Section analysis outlines in detail the contents of this section.

Three aspects of the Committee bill are of particular note. First, the Committee bill would require that not less than 25 percent of the amount of an implementation grant be matched from non-Federal sources. The Committee has carefully deliberated over the percentage match, balancing the need for State and local contributions with the resources that such levels of government have available and can realistically be expected to provide. It believes that the same percentage match—25 percent—should govern both the HOP and the HOPE programs.

The Committee bill would also adopt the HOP definition of qualified matching funds. Matching contributions could be in the form of (1) cash contributions from non-federal sources, which could not include Federal tax expenditures (e.g. low-income housing tax credits) Community Development Block Grants, (2) payment of administrative expenses, which could include payments from a Community Development Block Grant, (3) the value of taxes, fees, or other normal and customary charges that are waived, foregone or deferred in a manner that facilitates implementation of a homeownership program; (4) the value of land or other real property, (5) the value investment in needed on-site and offsite infrastructure, or (6) other in-kind contributions that the Secretary may approve.

The Committee has considered and rejected allowing scarce Federal resources like Community Development Block Grants and low-income housing tax credits to be deemed "non-Federal sources" for purposes of a match. The Committee believes that making such programs eligible for matching requirements would hide the true cost of converting public and assisted housing to resident ownership. It would also drain needed resources away from already strapped programs which are now used to achieve vital national housing objectives like neighborhood revitalization and affordable housing development.

Second, as with planning grants, the bill would require applications for implementation grants to include a certification that the proposed homeownership activities are consistent with the approved housing strategy of the State or locality in which the project is located.

Third, the bill would require applications to include a workable plan for giving all tenants an opportunity to become owners. Such plan would identify a number of important elements, including the price at which individual units or shares would be sold, the factors that would influence the setting of such price and the financing arrangements the tenants would be expected to pursue or be provided.

This provision emanates from GAO's study of the proposed sale of the Kenilworth Parkside project in the District of Columbia. The study noted that the Section 123 public housing homeownership program authorized by the 1987 Housing Act was completely silent on two fundamental issues: namely, how particular units or shares in a tenant cooperative would actually be sold to individual tenants and how long a resident management corporation could operate a property as rental property before beginning sales to tenants. As the GAO concluded. "[w]e believe the goal of the ownership program is for tenants to purchase dwelling units. If this goal is not realized, residents continue as renters and the concept of tenant ownership becomes little more than a continuation of tenant management."

GAO concluded that HUD should require an assessment of the feasibility of ownership by the families residing in a public housing developing before the sale of the property to a resident management corporation takes place. The "workable plan" provision has been included in response to GAO's analysis and recommendation.

The Committee believes that the availability of implementation grant monies for legal and consulting fees should be carefully monitored. In light of the recent HUD scandals involving excessive fees charged by consultants and lawyers under the Moderate Rehabilitation program, HUD must ensure that fees to consultants and lawyers be held to a bare minimum. The Committee strongly believes that the lion's share of HOPE for HUD Multifamily Homeownership funds should be used to acquire and rehabilitate properties covered under this program.

*Program Requirements and Limitations.*—Section 415 would establish the basic requirements and limitations under which homeownership programs would operate.

Location within Participating Jurisdictions: The Committee bill would allow the Secretary to approve applications for planning and implementation grants only for eligible properies that are located within participating jurisdictions. The Committee believes strongly that assisted housing should be sold to tenants only in jurisdictions where the State or local government is taking responsibility for its housing problems.

Financing: The Committee would require the application to identify and describe the proposed financing for rehabilitation of the project, the sale of units to eligible families and the sale of the project to an entity for subsequent resale to the families. Financing could include use of the implementation grant, conventional mortgage loans, FHA-insured mortgages, cash or other financing mechanisms.

The Committee bill would also place restrictions on project financing to preserve the low-income character of assisted housing earmarked for conversion to tenant ownership and minimize the potential financial exposure of the local and federal government. The GAO study of Kenilworth Parkside revealed that the 1987 Housing Act Homeownership program did not prevent resident management corporations from using their property as loan collateral or conveying an equity interest in the property to a partnership. These arrangements might be made with the best of intentions: to finance entrepreneurial activities to help tenants become self-sufficient. Yet, as the GAO concluded, "[i]f financially mismanaged, these arrangements could lead to the property either being (1) lost to creditors, thereby jeopardizing its low-income status or (2) repurchased at federal expense, in order to preserve its low-income status.

GAO recommended that the public housing agency be given the first right to repurchase the property by satisfying any lien on the property in the event the resident management corporation is unable to meet its financial obligations. The bill would contain a similar provision, requiring that a lender be required to give the Secretary, resident management corporation or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property or taking other action.

The Committee, however, does not believe that such protection is adequate. Local governments would simply be compelled to "eat" any financial loss or lose the housing, hardly an optimum set of alternatives. In the event of threatened foreclosure, it is most likely that government officials would be under enormous pressure to avoid grave embarrassment by diverting scarce low-income housing resources to bail out a troubled project. The right to "buy back" a former public housing project hardly limits the government's financial exposure.

The Committee bill would thus go further by prohibiting a transferred assisted housing project from being pledged as collateral for debt or otherwise encumbered unless the Secretary makes certain findings. In particular, the Secretary would need to find that (1) such encumbrance would not threaten the long-term availability of the property for low-income use; (2) neither the Federal Government would be exposed to undue risks; (3) any borrowing can be supported by project income; and (4) the proceeds of any borrowing would be used only to meet the required housing standards (see below) or to otherwise make capital improvements to the property.

Housing Standards: The Committee bill would require that assisted housing projects transferred under this subtitle meet housing standards established by the Secretary. The Secretary would be given the discretion to give an applicant, in response to a written plan, up to 3 years to bring the project in conformance with such standards. Passage of title would await completion of the necessary renovation work.

The Committee believes that requiring the Secretary or existing owner to retain title will serve as an important incentive to prospective owners to complete rehabilitation efficiently and expeditiously. In addition, retention of title will facilitate the process of repossession in the event that a recipient fails or refuses to meet its obligation to rehabilitate the property up to housing standards.

Qualified Management: The Committee bill would require that, as a condition of approval of a homeownership program, the resident management corporation (or other entity representing the tenants' interests) demonstrate its abilities to manage assisted housing by having done so effectively and efficiently for at least three years or by entering into a contract with a qualified management entity. The Secretary would establish standards for such entities to ensure that properties will be maintained in a decent, safe and sanitary condition. The existing Section 123 homeownership program requires resident management corporations to have three years of relevant management experience as a prerequisite for ownership. This provision is an expansion upon existing law since it also allows RMCs which use qualified management entities to meet the test.

Economic Self-Sufficiency Plan: The Committee bill would require that, if Federal, State or local assistance is received by eligible families, the applicant must provide an economic self-sufficiency plan designed to reduce the need for assistance. This plan would include training, employment and supportive services in order to help families raise their incomes to the point where they no longer need housing assistance. The plan would specify an estimated target date for phasing out the assistance.

Preferences: The Committee bill would establish preferences for purchase of public housing units. Current tenants would received a first preference and families who have completed participation in Project Independence or another economic self-sufficiency program received a second preference. This latter group would be given a preference because of the Committee's interest in enabling those who participate in Project Independence and similar programs to reap the full benefit of their initiative, including the opportunity to become homeowners.

Cost Limitations: The Committee bill would authorize the Secretary to establish cost limitations for any eligible activity, including, for example, the cost of rehabilitating the units.

Use of Proceeds from Sales to Eligible Families: The Committee bill would authorize the entity that sells the units to eligible families to use one-half of the proceeds from such sales for costs of the homeownership program, including improvements to the project, business opportunities for the families and supportive services related to the homeownership program. Proceeds could also be used for additional homeownership opportunities and other activities approved by the Secretary. The remaining one-half would be returned to HUD for use in the program. The Committee bill would also incorporate the existing Section 123 requirement that the resident entity keep and make available to the Secretary all records necessary to calculate the payments that are owed the Secretary under this provision.

Restrictions on Resale: The Committee bill would permit a tenant owner to transfer his or her ownership interest only (1) to low-income families and (2) at a price established in accordance with HUD guidelines that provide each owner with a fair return on investment, including any investment in improvements, and ensure that the housing will remain affordable to a reasonable range of low-income homebuyers. The proposal would give a resident management corporation or resident council a right of first refusal to purchase a unit.

The Committee intends that the investment of HOPE funds shall provide benefits for subsequent potential homebuyers, who qualify as low-income families, rather than benefits only for the initial purchasers of the homes. The objective of this title is to expand long-term homeownership opportunities for assisted housing residents and families who qualify for assisted housing. Since to do so HOPE will make homes available at prices substantially below market, failure to ensure ongoing affordability would permit large windfall gains to a fortunate few and would create temptations for abuse.

The Committee bill would also limit any undue profit which the initial purchaser could receive upon selling the unit. Generally, initial purchasers could be permitted to buy their units for less than market value, since they might be unable to afford to pay the full market value. Without provisions for recapturing undue profit, homeowners might be able to sell their units immediately and realize a gain not commensurate with their effort or commitment to the housing and neighborhood. Applicants would be given flexibility to structure the recapture provisions in a variety of ways. Four options would be delineated in the legislation.

While any option chosen would be required to provide for recapture of the subsidy provided to the homeowner for a period of at least 10 years, arrangements would be permitted that would allow homeowners to benefit from appreciation in the value of the unit during the period in which they own it. If a homeowner has a financial stake in the property, he or she is more likely to keep it in good condition or even upgrade it. In addition, without some ability to gain from its investment in homeownership, a family would be unlikely to have sufficient funds for a downpayment on a subsequent unit. On the other hand, families should not be able to reap undue profits simply by happening to live in a project that is converted to homeownership. Families should be expected to put something into their homes before they receive any benefits.

The Committee bill would also incorporate the Section 123 requirement that the appropriate entity ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

Finally, the Committee bill would require 50 percent of the funds recaptured under the undue profit provisions to be provided to the appropriate resident entity for costs of the homeownership program, including improvements to the project, business opportunities for the families and supportive services related to the homeownership program. Proceeds could also be used for additional homeownership opportunities and other activities approved by the Secretary. The remaining one-half would be returned to HUD for use in the program. The Committee bill would also, as part of the effort to consolidate all existing public housing homeownership programs with this program, incorporate the existing Section 123 requirement that the resident entity keep and make available to the Secretary all records necessary to calculate the payments that are owed the Secretary under this provision.

Protection of Nonpurchasing Families: The Committee bill would prevent nonpurchasing families from being evicted because of a homeownership program. If a tenant decides not to purchase a unit or is not qualified to do so, the Secretary would ensure that Section 8 rental assistance is available for use by income-eligible tenants in that or another property. The section would also require the recipient to pay relocation (moving) expenses.

Foreclosure Sales: The Committee bill would give HUD the authority to require properties sold at a foreclosure sale to be used only in accordance with a homeownership program approved under this subtitle, in order to prevent low income housing from being lost because of the timing of the foreclosure process.

In implementing the program, the Department would adopt appropriate sanctions and corrective actions to promote accountability by recipients and to address situations where recipients have failed to comply with the program requirements.

Dollar Limitation on Economic Development Activities: The Committee bill would provide that not more than an aggregate of $250,000 from amounts made available for planning and implementation grants may be used for economic development activities.

Timely Homeownership: The Committee bill would require recipients to transfer ownership of property to tenants within a reasonable period of time as established by the Secretary. The bill would also include rules governing tenant selection during the interim period when the property continues to be operated and managed as rental housing. Renters would continue to have all rights provided to public housing residents.

As with the requirement that applications contain a "workable plan", this provision responds to GAO's study of the Kenilworth Parkside sale. The study raised the possibility that resident management corporations could operate transferred housing as rental housing for long periods of time before selling individual units or shares to tenants. Further questions were raised in hearings about what rules would govern the activities of the RMC landlord during the interim period.

The Committee has concluded that the objective of resident ownership programs, quite simply, is to make residents owners. Resident councils should facilitate the conversion of projects to resident ownership as expeditiously as possible.

Access to Books and Records: The Committee bill would give the Secretary and the Comptroller General access to relevant books, documents and records for the purpose of audit and examination. Similar provisions are provided under Title III of the Stewart B. McKinney Homeless Assistance Act.

Certain Entities Not Eligible: The Committee bill would provide that any entity that assumes, as determined by the Secretary, a mortgage covering eligible property in connection with the acquisition of the property from an owner must comply with any low-accordability restrictions for the remaining term of the mortgage. This requirement would only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis. This coverage would permit situations in which the entity intends to hold the property for an interim period within which units would be "spun off" to individual home owners.

*Section 8 Assistance.*—The Committee bill would authorize the Secretary to extend existing contracts for loan management assistance under section 8(v) of the U.S. Housing Act of 1937 to provide assistance for the operating costs of an approved homeownership program after transfer under this subtitle, to the extent that the total income of this project is not sufficient to cover the costs of operation. If such extensions are not sufficient to cover operating costs of an approved homeownership program after transfer under this subtitle, the Secretary could provide additional rental assistance under Section 8(b)(3).

### *Subtitle C—HOPE for Homeownership Through Nonprofit Organizations*

*In General.*—The Committee bill would authorize the Administration's proposed program of HOPE grants through which ownership of federal, state and locally held housing would be transferred to low income families who are not currently homeowners. The program would cover single family and multifamily housing. It would be targeted to non-profit organizations because they are uniquely well-suited to work with public agencies and local communities to revitalize declining and deteriorated neighborhoods. Thus, the Committee bill would encourage non-profit organization low-income housing in two ways: 1) by providing a 10% set-aside for non-profit organizations within the HOP program and 2) by ensuring non-profit participation in the HOPE program.

The Committee, on a bipartisan basis made a number of refinements to the original Administration proposal to ensure that low-income families are served fairly and justly by this program.

*Authorization.*—The Committee bill would authorize $25,000,000 for fiscal year 1991; $35,000,000 for fiscal year 1992; and $45,000,000 for fiscal year 1993.

*Implementation Grants.*—Section 432 would create the structure for the implementation of HOPE grants to nonprofit organizations. It would establish eligible activities, matching requirements, application procedures and selection criteria. The section-by-section analysis outlines in detail the contents of this section. The Committee believes that the availability of implementation grant monies for legal and consulting fees should be carefully monitored. In light of the recent HUD scandals involving excessive fees charged by consultants and lawyers under the Moderate Rehabilitation program, HUD must ensure that fees to consultants and lawyers be held to a bare minimum. The Committee strongly believes that HOPE for Nonprofit Organization's funds should be used to acquire and rehabilitate properties covered under this program.

The Committee bill would require that not less than 25% of the amount of an implementation grant be matched from non-Federal sources. The Committee believes that matching requirements are necessary because of the scarcity of federal assistance for low and moderate income housing initiatives and to ensure that state and local governments make a commitment to addressing the housing needs of their citizens. The Committee has carefully deliberated over the percentage match, balancing the need for state and local contributions with the resources that such governments have available to address housing needs and can realistically be expected to provide. The Committee believes that the matching requirement contained in the HOP program should be applicable to the HOPE initiatives as well.

The Committee bill would also adopt the HOP definition of qualified matching funds. Matching contributions could be in the form of (1) cash contributions from non-federal sources, which could not include federal tax expenditures such as low-income housing tax credits, Community Development Block Grants (CDBG); (2) payment of administrative expenses including payments from CDBGs, but in no case may exceed 7% of the matching requirement; (3) the value of taxes, fees, or other normal and customary charges that are waived, foregone or deferred in a manner that facilitates implementation of a homeownership program; (4) the value of land or other real property; (5) the value of investment in needed on-site and off-site infrastructure or (6) other in-kind contributions that the Secretary may approve.

The Committee has considered and rejected allowing the scarce federal resources for such as CDBG, which is needed to redevelop hard-pressed communities, or the low income housing tax credits to be used as "non-federal sources" for purposes of a match. The Committee believes that making such programs eligible for matching requirements would drain needed resources away from already strapped programs which are now used to achieve vital national housing objectives like neighborhood revitalization and affordable housing development.

The Committee bill would require application for implementation grants to include a certification that the proposed homeownership activities are consistent with the approved housing strategy of the state or locality where the project is located.

The section-by-section contains the application requirements and selection criteria for the HOPE for Nonprofit Organizations program.

*Other Program Requirements and Limitations.*—This section would establish the basic requirements under which the HOPE for Nonprofit Organizations would operate. A more detailed description is contained in the section-by-section.

The Committee believes that two requirements contained within this section are particularly noteworthy to safeguard existing tenants and ensure the retention of the housing for low income families.

The Committee bill would ensure that first preference for purchase be given to existing tenants. The Committee believes existing tenants must be safeguarded from unnecessary displacement. A second preference would be given to families who participate in economic self-sufficiency programs. The Committee believes that families participants in an economic self-sufficiency program have demonstrated a commitment to individual empowerment and should be rewarded for such actions.

The Committee bill would permit a purchasing family to transfer their ownership interest only (1) to low-income families and (2) at a price established in accordance with HUD guidelines that provide each owner with a fair return on investment, including any investment in improvements, and ensure that the housing will remain affordable to a reasonable range of low-income homebuyers. The committee intends that the investment of HOPE funds shall provide benefits for subsequent potential homebuyers who qualify as low-income families, rather than benefits only for the initial purchasers of homes.

The Committee bill would also limit the return on investment which the initial purchaser could receive upon sale of the unit.

Generally, initial purchasers would be permitted to buy their units for less than market value, since they might be unable to afford to pay the full market value. The Committee is concerned that without provisions for recapturing a percentage of the profits, purchasers under this program could sell their units immediately and realize a gain not commensurate with their effort or commitment to the housing and neighborhood. Purchasers under this program would be given flexibility to structure the recapture provisions in a variety of ways. The options are delineated in the section-by-section.

The Committee bill would prevent non-purchasing families from being evicted because of this program. If a Section 8 eligible tenant would decide not to purchase or would not qualify to purchase the property, the local PHA would have to offer such tenants section 8 assistance for use in other housing and the recipient would have to pay relocation expenses.

## TITLE V—AFFORDABLE RENTAL HOUSING

### *Subtitle A—Preservation of Affordable Rental Housing*

### *Tenant Rents in Federally Assisted Housing*

The Committee bill would establish a new rent rules for moderate and over-income tenants living in housing developed under the Section 236 and 221(d)(3) programs. The change is designed to accomplish three objectives: (1) to assure that moderate and over-income tenants pay their fair share of rent; (2) to encourage those moderate and over-income tenants who are unwilling to pay a fair and reasonable rent to move out, thus freeing up federally assisted housing for low and very-low income tenants who are more in need of affordable housing; and (3) to make additional resources available to meet the physical and financial needs of the housing.

Under existing law, the Section 236 rent is generally set at the greater of basic rent (reflecting operating expenses, allowed returns and debt service on a 1 percent loan) or 30 percent of adjusted income. However, in no event can a tenant's rent exceed the "market rent" established for the program, which is based on the actual interest rate on the project's mortgage (generally 7 percent). This "market rent" is usually only about $30 to $60 higher than the basic rent.

While initial occupancy in Section 236 projects is limited to low-income families (i.e. families with incomes below 80 percent of area median income), the program permits—and, in fact, encourages—families to remain in place as their incomes rise. Rent for families with incomes above 80 percent of area median is limited to the program "market rent", which generally allows such families to pay less than 30 percent of their income for rent. (By contrast tenants living in units subsidized by Section 8 rental assistance must pay 30 percent of their income for rent). Without the encouragement of higher rents, moderate and middle income families have no incentive to leave the subsidized housing and every incentive to stay and take advantage of the rent-restricted units. Low income families, in turn, are denied access to housing units that were developed for their use.

The story is similar for the Section 221(d)(3) BMIR program. While tenants must initially have incomes within 95 percent of area median income, rents are capped at "adjusted market rents", set at 110 percent of the controlled "economic rent". Tenants whose income have risen over time invariably pay this "adjusted market rent" instead of a rent which reflects their ability to pay.

The Committee bill would, therefore, require tenants living in Section 236 and 221(d)(3) housing whose incomes exceed 80 percent of area median income to pay as rent the lower of the following amounts: (1) 30 percent of the tenant's adjusted monthly income; or (2) the relevant fair market rent established under Section 8 for the area in which the housing is located. The Committee intends that any rent increases be phased in accordance with the rules established under section 225(b) of the Emergency Low Income Housing Preservation Act of 1987. The change in rent rules would apply to all Section 236 and 221(d)(3) housing, including housing which has received flexible subsidy assistance under Section 201 of the Housing and Community Development Amendments of 1978.

The Committee intends that existing law and practices should govern the use of additional income generated by any increases in tenant rents. In Section 236 projects, excess rents would continue to be channeled to the Flexible Subsidy Fund. In Section 221(d)(3) projects, owners would be required to retain excess rents in segregated project accounts. Funds in such accounts could be used, at HUD's permission, for project repairs and replacements.

### *Flexible Subsidy Fund*

The Committee has grown increasingly concerned over evidence that conditions in many older subsidized projects have increasingly deteriorated or are in the process of doing so. Such properties generally share common characteristics: (1) they suffer from operating cash deficits because income does not cover expenses; (2) they need repairs that the limited cash flow cannot cover; (3) owners have ceased to invest additional capital following the Tax Reform Act of 1986; (4) possibilities for the infusion of capital from other sources are limited, given the distressed inner-city neighborhoods in which these properties are located, the substantial tax liabilities facing owners in the event of transfer to a new ownership and other negative consequences of the Tax Reform Act of 1986.

The Department currently has a range of options under statutory law, program regulations and contracts to remedy deteriorating conditions. On the resource side, the Flexible Subsidy program is the principal tool used by HUD to avoid defaults on older subsidized properties and help owners take care of the physical and financial needs of "troubled properties". This program provides direct low-interest loans to help restore or maintain the physical and financial soundness of federally-assisted housing. (Capital improvement loans can also be provided in conjunction with prepayment workouts). Currently, the loans are financed exclusively out of funds collected from "excess rent" payments in Section 236 projects.

The Committee believes that demand for the Flexible Subsidy program has and and will greatly exceed the available resources in the coming years. The Committee bill would thus reauthorize, for fiscal years 1991, 1992 and 1993, the use of certain excess rental charges from Section 236 projects for the purpose of funding the Flexible Subsidy program. This reauthorization stands in sharp contrast to the Administration's budget request, which would terminate use of the excess rents for such purpose.

The Committee bill would also authorize an additional $50 million for the Flexible Subsidy program.

The Committee expects HUD to determine, in a timely fashion, the physical renovation needs of distressed federally-assisted housing and estimate the cost of correcting deficiencies and subsequently maintaining that inventory in adequate physical condition. The Department of Housing and Urban Development Reform Act of 1989 requires HUD to produce a capital assessment study by December, 1990 with preliminary information and data due by April 1, 1990. As of the date of this report, the Department has yet to provide the Committee with such preliminary information (primarily related to the backlog of Flexible Subsidy applications).

### *Prepayment of Mortgages in the Older Subsidized Inventory*

Background: One of the most significant challenges facing the Congress is to preserve the affordability of hundreds of thousands of older subsidized housing units that are threatened with conversion to market-rate housing through mortgage prepayments and other methods of terminating low-income affordability restrictions.

The Emergency Low-Income Housing Preservation Act (ELIPHA), enacted as Title II of the Housing and Community Development Act of 1987) provided a temporary, interim solution to the problem that was designed to give Congress the "breathing room" to consider and act upon the research and recommendations then being developed by several private sector task forces.

ELIPHA attempted to balance the interests and concerns of both owners and tenants. The law recognized that a continuing partnership between all levels of government and the private sector is essential if the nation is to resolve its affordable housing crisis. Congress also recognized that because of an administrative decision to permit owners to withdraw from the programs after twenty years, some of the original sponsors or subsequent purchasers may have anticipated an opportunity to benefit from the residual value of the housing. For these reasons, Congress rejected the notion of an absolute moratorium on prepayments. Rather, the law authorized HUD to provide owners with a series of valuable incentives either to extend the low-income affordability for the remaining terms of the mortgage or to transfer the housing to tenant cooperatives nonprofits or public entities.

The law also protected low-income tenants from evictions or sharp increases in rent. It prohibited termination of low-income affordability in those circumstances where termination would leave current tenants unable to find housing that is comparable and affordable or where it would harm such long-established national objectives as availablility of low-income housing, access of low-income people to employment or housing opportunities for minorities. An owner was permitted to prepay the mortgage and terminate low-income affordability restrictions where these compelling public interests would not be irreparably harmed.

The "breathing room" created by ELIHPA has been well used. A number of public and private sector organizations have greatly enhanced understanding of the complexities of the prepayment issue. The Low-income Housing Preservation Commission led by Henry Reuss and Carla Hills provided the Congress with excellent projections on the profile of the tenants living in these apartments, the economic and tax motivations driving owner decisions, and the potential budgetary impact of various policy options. The National Housing Trust, a nonprofit organization dedicated to the preservation of the older subsidized inventory, issued a report providing the most cogent explanation to date of the economics of subsidized housing ownership and the relative effectiveness of various preservation options. The National Advisory Council on HUD Management Agents, the Congressional Budget Office and many other organizations and individuals have also made significant contributions during this period.

State and local governments also used the interim period to assess the potential loss of at-risk properties in their own jurisdictions and examine the roles they could play in preservation strategies. According to the National Low Income Housing Coalition, more than 15 extensive reports on at-risk housing have been prepared for states, regions and localities.

States have been particularly active. Preservation of at-risk housing is a primary mission of the newly created California Housing Partnership Corporation and of the Vermont Housing and Conservation Trust Fund. The state housing finance agencies in Rhode Island, Massachusetts and Maryland have devoted substantial resources to preservation. Legislation, particularly provisions requiring tenant protections, has been enacted in nine States (Washington, California, Minnesota, Missouri, Illinois, Maryland, Rhode Island, Connecticut and Maine) and administrative action has been taken by the states of New York, Massachusetts and New Jersey.

Local task forces have also considered the range of municipal responses (rent control tax abatement, etc.) that can be taken alone or in conjunction with a federal preservation solution. Some local governments (e.g. Fairfax County, Virginia) have already assisted in the preservation of particular projects. An extensive report prepared by the City of San Jose's Federal Housing Conversion Task Force illustrates the seriousness with which this issue is considered at the local level.

Basic principles: The Committee believes that agreement on some fundamental principles have emerged from this activity. First, the Federal subsidized inventory is serving as a valuable low-income housing resource the National Low-Income Housing Preservation Commission estimated that 70 percent of the tenant population have incomes below 50 percent of the relevant area median and 90 percent of the population have incomes below 80 percent of the relevant area median.

Second, the potential loss of subsidized units is large. The Preservation Commission estimated that owners are expected to terminate the low-income affordability restrictions on some 243,000 units during the next 15 years. A preliminary analysis of the Commission's report conducted by the Congressional Budget Office indicates that the loss may be as high as 280,000 units.

Third, the problem is disproportionately located in several states like California, Massachusetts, Connecticut, New York, Maryland and Illinois where rental markets have become overly tight. The loss of units in such markets would be devastating to families and communities.

Fourth, the owners of the inventory are not a uniform group. Some are the original owners of housing developed during the late 1960's and early 1970's who were attracted by the highly-leveraged, low risk financing made available by the federal government. Others came into ownership during the resyndication fervor of the early 1980's spawned by tax code changes that provided investors in existing low-income housing with the same special tax benefits available to investors in newly constructed low-income housing. A small group of affected owners are recent purchasers. The reasons why owners developed or purchased individual projects are varied. The methods by which different projects are preserved may have to be varied as well, ideally through a combination of tax relief and funded incentives.

Fifth, preservation of the existing inventory for low-income and moderate-income use is a valid and significant component of national housing policy. A Federal preservation strategy is, by far, the most cost-effective strategy available to the government and, if structured correctly, can be accomplished in a way that protects the interests of the owners, the tenants and the communities in which the housing is located.

Sixth, failure to enact a strong Federal preservation strategy would have destructive consequences. States and localities would be compelled to fill the vacuum left by the Federal government with emergency preservation measures that would potentially fracture affordable housing coalitions and inhibit their ability to focus on the myriad of other housing problems.

ELIHPA is set to expire on September 30, 1990. The Committee bill contains a permanent solution to the prepayment issue which builds upon the extensive work and consensus emerging from the past three years.

The Committee bill also builds upon the prepayment solution contained in the Administration's legislative package. The Administration's proposal viewed conversion to resident ownership as the principal means of preserving the older sudsidized inventory as low-income housing. Resident councils would have been given a 2-year period to attempt to purchase the properties. If tenants did not desire or could not effect a purchase, owners would have been given the option to (1) accept incentives in exchange for extending the affordability restrictions (or selling to a nonprofit or public agency which would do so), or (2) prepay and convert the housing to market-rate housing, providing relocation benefits to affected tenants. Affected tenants would also have been given vouchers.

The Administrations' proposal, however, was strongly criticized in testimony and comments provided to the Committee. Critics representing a wide range of organizations and interests argued that the proposed solution: (1) mistakenly emphasized resident ownership rather than permanent affordability as the preferred and most heavily subsidized preservation alternative; (2) would have provided windfalls to moderate-income tenants where conversions to resident ownership occurred; (3) would have failed to avert prepayments and conversions to market-rate housing in tight rental markets, leading to significant tenant displacement; (4) would have failed to provide displaced tenants with adequate subsidies to find comparable, affordable housing; and (5) did not adequately tap the resources and administrative capacity of state housing agencies.

The Committee, therefore, revised the Administration proposal where necessary in response to these significant criticisms.

General Prepayment Limitation: The Committee bill would permit an owner of eligible low-income housing to prepay and a mortgagee to accept prepayment only in accordance with a plan of action approved by the Secretary. Likewise, the bill would permit such owners to voluntarily terminate mortgage insurance only in accordance with an approved plan of action.

Notice: An owner of eligible low-income housing would be required to file a notice indicating the owner's intent to pursue one of three options: seek to terminate the low-income affordability restrictions through prepayment or voluntary termination, seek incentives to extend such restrictions, or seek to transfer the housing to a qualified purchaser. The owner could file this notice up to 18 months before the date of eligibility to prepay. The bill would require the owner simultaneously to file the notice with the appropriate State or local government and to notify the tenants of the housing.

Notification of the tenants under this section is the first indication of the significantly enhanced role that tenants would play under the Committee's bill ELIHPA has been severely critized for its lack of clear guidance on the subject of tenant participation. The Administration's proposal rectified the Act's weaknesses by making tenants full-fledged participants in the preservation of individual projects. The Committee bill would adopt the notice requirements contained in the Administration proposal.

Plan of Action: Within 6 months of receipt of the notice, the HUD Secretary would be required to provide the owner with such information as the owner needs to prepare a plan of action. The required information would depend upon which option the owner choose to pursue. If the owner seeks to terminate the low-income affordability restrictions, HUD would provide information relating to the criteria governing such termination and the documentation required to satisfy such criteria. HUD would also provide any relevant market area and demographic information that the Secretary has custody of and that the owner may need to prepare the plan of action.

If the owner seeks to extend the low-income affordability restrictions or transfer the housing to a qualified purchaser, HUD would provide a notice of the housing's preservation value (see below) and a description of the authorized incentives. HUD would provide the tenants the same information as is provided to an owner as well as additional information relating to the tenant's rights and opportunities.

The bill would outline the type of information that the plan of action must include. The Committee expects that details of individual plans of action will differ markedly from project to project depending upon which option the owner chooses to pursue. For example, an owner seeking to terminate the low-income affordability restrictions would be expected to provide detailed explanation of the impact of the proposed termination on the existing tenancy and the local supply of affordable housing. However, an owner seeking to extend such restrictions or transfer the housing to a qualified purchaser would not be expected to provide such information since the provision of incentives obligates the owner (or purchaser) to retain the housing for low-income use.

The Committee expects that, for owners seeking to extend affordability restrictions or transfer to a qualified purchaser, the plan of action would serve a different function than currently. Under ELIHPA, plans of action simply served as the starting point for arduous and lengthy project-by-project negotiations between HUD and owners. That experience reflected, in part, the difficulty in arriving at a preservation value given that the law did not contain a specific definition of "fair return on investment".

Since the Committee bill, as described below, does establish value in fair and predictable manner, the rationale for intensive project-by-project negotiation has been largely removed. HUD and the owners will both know upfront what value (or return on value) and owner should receive. The decisions that remain—what set of incentives need to be provided to attain that value—are largely technical issues which should be conducive to a streamlined process.

The Committee expects that the timing of the submission and approval of plans of action will also differ from project to project, again depending upon which option the owner chooses to pursue. For example, the Committee bill would generally require an owner to submit a plan of action within 6 months after receiving the appropriate information from HUD. Yet, a longer period would be provided where an owner seeks to transfer the housing to a qualified purchaser. In that situation an owner would, most probably, delay submission of a plan of action until some agreement has been reached with a purchaser.

Likewise, the Committee bill establishes maximum periods for review. The Committee expects the Secretary to review and decide upon plans of action as quickly as fair deliberation and involvement of all interested parties will allow.

Preservation Value: The Committee would establish a standard method for calculating a "preservation value" for each property. The preservation value would equal the appraised fair market value of the housing as multifamily rental housing.

The Committee carefully considered and rejected the idea of valuing the housing as condominiums or other form of residential use for two primary reasons. First, the housing was designed and built as multifamily rental housing. It has a 20-year operating history as rental housing, historic data that will be extremely useful in the valuation process. The purpose of the appraisal is to determine its value for the tenure type for which it was built and has served for the past 20 years, but without the federal low-income affordability restrictions which limit market value.

Second, the Committee was advised of the high degree of uncertainty and speculation that must necessarily accompany an appraisal of a rental housing development's condominium conversion potential, particularly rental housing that currently serves low-income and moderate-income tenants. These conversion costs vary widely, particularly in jurisdictions with stringent condominium conversion laws, and are hard to quantify. Market absorption trends cannot be readily predicted. Finally, a key feasibility and profit margin factor—the availability of financing for potential home purchasers—is extremely sensitive to periodic swings in interest rates and credit availability. Condominium appraisals can become outdated very quickly.

Appraisals will play a critical role in the Committee's incentive program. The Committee desires to reduce to a minimum the potential for disputes between owners, HUD, tenants, state and local officials and other affected parties over the accuracy of these appraisals. The Committee has determined that appraisals of the housing as market rate multifamily rental housing will provide the fairest and most reliable indicator of value given the historic use of the property and in light of the purpose for which these appraisals will be commissioned.

The Committee bill adopts the 3 appraiser approach currently used under the Farmers Home prepayment provisions. The fair market value would be set by two independent appraisers, one chosen by the Secretary and one chosen by the owner. If these appraisers failed to agree, the value would be set by a third appraiser, jointly selected by the Secretary and the owner.

HUD would establish written guidelines for the conduct of appraisals. An appraisal would start with the assumption that an owner of a particular property has selected to prepay the existing HUD-assisted mortgage, terminate the affordability restrictions and convert to market-rate, multifamily rental housing. The appraisal would then proceed to "back out" particular costs that would have been incurred as a result of such actions. First, the cost of bringing the subject property up to standards that are necessary to attract and sustain a market rate tenancy would be calculated. These standards would clearly be above and beyond the housing quality standards that have generally been established by HUD for federally assisted housing. The Secretary would need to establish guidelines for calculating the cost of the necessary physical improvements, which would take into account both hard (e.g. market rate financing) and other indirect soft costs (e.g. expected rent losses due to vacancies during the conversion period).

Second, costs associated with conversion to market-rate multifamily rental housing would be deducted. Prepayment and conversion compels the existing tenancy to project—primarily low-income and very low-income tenants— to choose among two equally untenable options: stay in project and pay substantial rent increases or begin a search for housing in markets where comparable affordable housing does not exist.

This pressure on the existing tenants will have a measurable effect on both project revenues and costs, especially during the period when the property is phased from restricted to market use. Project revenues will be affected as units are turned over more rapidly. Project costs will likely increase because of the difficulties associated with conversion. Rent skips and rent withholding will typically rise as will legal costs (e.g. evictions), maintenance and repair costs (assuming greater tenant resistance and complaints) and advertising and rental expenses (e.g. leasing commissions). These revenue/cost assumptions for the conversion period would vary by property depending upon, inter alia, the difference between a project's current rents and prevailing market rents and the income distribution of the existing tenancy. The Secretary will need to establish clear and consistent guidelines for recognizing such differences.

The Committee bill would permit an appraiser to rely upon assessments of rehabilitation needs and others costs of conversion that have been determined by an appropriate State agency.

After an appraiser has considered the specific cost elements and factors associated with conversion to market-rate rental housing, a discount would be applied to reach the final preservation value. The discount would be established by the Secretary to reflect the residual value of federal assistance—both direct and indirect—that was provided to these projects over the years. The Committee has heard substantial testimony during the past few years about the myriad forms of public investment that were provided to build (mortgage insurance, interest subsidies and tax incentives) and support (rental assistance) the older inventory. The Committee recognizes that much of this public investment provided incentives for owners to participate in the programs and benefits to tenants. The Committee believes that it is fair and reasonable to recognize the residual value of this public investment in the form of a discount.

The Committee intends that the discount be set as a percentage. That percentage would be applied not on a project-by-project basis but either to the entire inventory or, if feasible, to discernible classes of at-risk properties. Thus, the Secretary could establish separate discount rates for different classes of properties, making distinctions based upon the general amount of direct and indirect subsidies received. The Committee believes that it would be fair and reasonable to apply discount rates ranging from 5 to 20 percent to such discernible classes of properties. For example, a low discount rate could be applied to projects still retained by the original ownership, where such owners neither received additional subsidies (e.g. Section 8 LMSA) nor syndicated their projects. Alternatively, a high discount rate could be applied to projects which (1) have a predominance of units subsidized by Section 8 and (2) were syndicated under the favorable tax rules of the Economic Recovery Tax Act of 1981.

Extension of Low-Income Restrictions: An owner who seeks to extend the low-income use of the housing would be eligible to receive two types of incentives. First, HUD would provide either direct capital improvement loans or an insured rehabilitation loan under Section 241 to bring the housing up to standard.

Second, and most significantly, HUD would provide incentives that give an 8 percent return on an owner's imputed equity in the housing. That imputed equity would be equal to the preservation value minus the existing debt secured by the property.

The Committee has taken a number of factors into consideration in arriving at the 8 percent figure. First, the 8 percent return compares well with existing law. The affected programs permit a 6 percent return on a *de minimis* equity base (10 percent of original development costs). Under ELIHPA, Congress explicitly included increases in the allowable distribution and revisions in the method of calculating equity as permissible incentives. The Committee bill goes a step further by specifying a precise return on a defined equity base. The Committee believes that such specificity will—like the establishment of a standard preservation value—simplify the administration of the preservation solution.

Second, the 8 percent return is a fair and reasonable exchange for an owner's agreement to retain the low-income character of the housing for its remaining useful life. It compares well with rates of return expected by entrepreneurs involved in market rate housing given the special nature of this preservation program. In contrast to market rate developers, subsidized owners under this program will (1) contribute little of their own capital, (2) be guaranteed a constant demand, (3) receive heavy operating subsidies, (4) receive favorable rehabilitation financing and (5) incur relatively few risks. Moreover, the 8 percent return will be assured through a regulated agreement that will insulate the owners from the vagaries of the rental market and eliminate the uncertainties associated with negotiating with prospective tenants over rents. These advantages are not inconsiderable and have real value for owners. The limited rate of return is designed to reflect this fact.

The 8 percent return on imputed equity would be provided to owners through one or more of the following incentives: (1) increased access to residual receipts accounts; (2) the provision of additional Section 8 assistance or an increase in the rents under existing contracts or an extension of any project-based assistance such as Loan Management Set Aside; (3) increased rents for some tenants between 50 percent and 80 percent of area median income in accordance with statutorily defined criteria; (4) increased rents for some tenants over 80 percent of the area median income in accordance with statutorily defined criteria; and (5) a redirection of the Section 236 Interest Reduction Payment subsidies to a second mortgage. Except for the redirection of interest reduction payment subsidies, these incentives reflect the incentives authorized under the Administration's proposal.

The Committee heard testimony that many existing owners face a "phantom income" tax problem. This problem becomes particularly acute when the interest subsidy on the Section 236 mortgage exceeds the interest payment due and the subsidy surplus is applied to pay down the principal balance. By applying the Section 236 interest subsidy to borrowing costs on a second mortgage, the Secretary can alleviate "phantom income" problems caused by rapid amortization of the underlying Section 236 mortgage. The interest reduction payment could be applied to subsidize the interest rate on a rehabilitation loan, or uninsured equity take-out loan provided the Secretary determines that withdrawing the interest subsidy from the underlying Section 236 mortgage will not present a risk of assignment and a claim against the FHA Insurance Fund.

The Committee bill, in contrast to the Administration's proposal, would not authorize the Secretary to insure equity take out loans under the Section 241(f) program on behalf of current owners. Three major considerations underlie the Committee's decision not to reauthorize this program.

First, the Committee has tried to draw lessons from the recent focus on severely distressed conditions in federally assisted housing projects that were resyndicated in the early 1980's. Federally assisted programs must contain an appropriate mix of rewards and penalties—and HUD monitoring—to ensure that quality maintenance is performed. The Committee believes that the combination of permanent affordability restrictions and insured equity loans would remove (1) an owner's incentive to maintain the property over the long haul, and (2) the government's leverage to enforce quality maintenance. If, for example, an owner failed to maintain the property in good repair, the government could not respond by reducing or suspending rental subsidy payments because such actions would risk a default on the insured loan and a claim against the FHA Insurance Fund.

Second, the Committee is generally concerned about the safety and soundness of the FHA Insurance Funds. The severe losses that have been incurred in the past few years have triggered a reevaluation and retrenchment of various FHA activities. The Section 241(f) loan program was initially authorized before such loss information was available and the subsequent focus on appropriate risk.

Finally, the Committee believes that there are alternatives to federally insured loans. The Committee bill would give owners who opt to extend the affordability restrictions a guaranteed 8 percent return on imputed equity. Owners should be able, if they desire, to secure a noninsured loan based upon such guaranteed income stream.

Transfer to Qualified Purchasers: For owners seeking to transfer eligible housing to qualified purchasers, the Committee bill would require an owner to comply with a "right of first offer" process. The owner would be required to give "priority purchasers" a 3-month period (from the date an initial notice of intent is filed) to express an interest in acquiring a property. Priority purchasers would be entitled to receive sufficient project-related information within 30 days of expressing an interest. They would then be given an additional 9 months to negotiate a purchase with the owner and submit a plan of action requesting incentives.

If no interest is expressed in the initial 3-month period, or if an interest is expressed and 9 months passes without an agreement on the terms of a sale, an owner would be free to sell to any qualified purchaser.

The Committee has provided for this special period in order to establish a genuine advantage for priority purchasers. In doing so, the Committee balanced the legitimate interests of HUD, owners and tenants in not creating unnecessary or unjustified delays through unlimited negotiations against a clear and legitimate policy interest in facilitating and encouraging transfers to priority purchasers. The Committee notes that, in come instances, priority purchasers may be less sophisticated and less well capitalized than profit-motivated qualified purchasers seeking the same properties. If HUD does not exercise appropriate discretion these priority purchasers could be severely disadvantaged because of an inability to complete an agreement on sale within 9 months.

Priority purchasers will in many cases be putting a substantial proportion of their limited resources at risk by entering these negotiations and could be severely damaged if their efforts fail simply because of the application of a specific time period. Indeed, interest by priority purchasers in entering these negotiations could be substantially chilled because of such concerns, an outcome the Committee wishes to avoid. The Committee expects the HUD Secretary through regulation to address this issue and provide for reasonable opportunities to extend the stated period under specified circumstances where negotiations are proceeding in earnest but do not conclude within the fixed time. Both owners and priority purchasers should have access to the appeals process through HUD to adjudicate disagreements in this area, and such a process should be expedited.

The Committee bill would define priority purchasers as essentially including 3 kinds of entities: (1) a resident council that is organized to develop and implement an approvable resident ownership program, (2) a qualified nonprofit organization that is dedicated to the promotion of affordable housing and agrees to maintain the low-income affordability restrictions for the housing's remaining useful life, and (3) State and local housing agencies that agree to maintain the low-income affordability restrictions for the housing's remaining useful life. The Committee intends that qualified nonprofit organizations essentially conform with the requirements established for community housing development organizations under the HOP program.

A qualified purchaser would be defined as including priority purchasers and any other entity (including for-profit entities) that agrees to retain the housing as low-income for the remaining useful life of the housing.

For approvable plans of action, HUD would provide qualified purchasers with subsidies sufficient to (1) acquire the property at the preservation value, (2) rehabilitate the housing up to established standards, and (3) establish sufficient operating and replacement reserves. Resident councils would also receive additional subsidies for training purposes and homeownership counseling.

Acquisition subsidies could take various forms. For priority purchasers, the Secretary could provide a grant that does not exceed the present value of the projected published Section 8 existing housing fair market rents for the next 10 years (or such longer period if needed to cover the eligible costs referenced above). The Administration proposal authorized this form of subsidy only for acquisitions made by resident councils. The Committee believed that the focus on resident ownership was too narrow and expanded the pool of eligible recipients to include nonprofit organizations and public agencies. The Committee also provided the Secretary with more flexibility in setting the amount of assistance.

For all qualified purchasers, the Secretary could provide the same incentives that are available to owners who seek to retain ownership and extend the affordability retrictions. Acquisition financing would be permitted under the Section 241(f) program.

The Committee recognizes that some owners will choose to sell their properties rather than continue participation in a regulated program even though substantial incentives are offered. Some of these owners are elderly individuals who had expected to sell their developments and retire. In order to make the transfer option meaningful in all circumstances, the Committee has concluded that insured acquisition financing must be made available to any qualified purchaser. However, the Secretary has the discretion to withhold the availability of insured acquisition financing when a transfer to a profit-motivated owner is proposed, if the Secretary determines that such financing is not essential to complete the transfer. Requests for insured acquisition financing and other incentives should be intensively scrutinized if there is any identity of interest or relationship between any participant in the current ownership entity and any participant in an acquiring entity that is organized as a partnership or other for-profit entity.

The Committee notes that the sale of at-risk housing will trigger heavy tax liabilities for the existing owners. A large portion of the acquisition subsidy will, therefore, be returned to the federal government in the form of a tax on capital gains.

To avoid using federal subsidies only to repay federal taxes, some observers have recommended that the federal government waive some or all of the tax on capital gains owed by the current owner if the owner sells the project to a tenant council, non-profit or public entity that will retain the housing for low-income use in perpetuity. The acquisition subsidy would be reduced accordingly.

The Committee believes that this proposal deserves serious attention by the Finance Committee and the Joint Tax Committee As numerous reports have demonstrated, the older subsidized inventory was developed (and, in some cases, recapitalized) through a combination of tax and expenditure subsidies. Some experts have argued that a combined tax/expenditure solution to preservation would reduce the overall cost to the Federal government and help facilitate transfers of properties to entities that have a long-term commitment to low-housing, unlike the unwieldy limited partnerships that now own a large portion of the inventory. The Committee intends to request the General Accounting Office to assess the policy and budgetary implications of Federal tax incentives that could be authorized to facilitate the preservation of the older subsidized inventory.

Criteria for Approval: The Secretary could approve a plan of action that includes incentives only after making two major findings. First, the Secretary would need to determine that the package of incentives is the least costly alternative available to meet the objectives of the preservation title over the long term. Second, the Secretary would need to find that binding commitments have been made to ensure that: (1) the housing would be retained as affordable housing for the remaining useful life of the housing; (2) expenditures for maintenance and operation would be adequate throughout such period; (3) tenants would not be displaced as a result of the incentives package; (4) any increases in tenant rent would not result in rent burdens in excess of 30 percent of adjusted income, or the published section 8 existing FMR, whichever is lower (current residents would not qualify for a reduction of rent); (5) any rent increases would be phased in and section 8 rental assistance would be provided as necessary to help low-income families afford the higher rents; and (6) rents would be at levels that would ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income, low-income and moderate-income tenants.

The bill provides guidance for the rent structure of projects that receive incentives. As described above, the incentives would be designed to (1) provide an 8 percent return on imputed equity where an owner agrees to extend the affordability restrictions and (2) attain the preservation value where an owner agrees to sell the property to a qualified purchaser. The Committee envisions that HUD will alter rent and subsidy levels to support the project's new financial structure. HUD would adjust (over time) the rents of moderate-income tenants who are paying less than 30 percent of their income up to the lower of the 30 percent level or the existing Section 8 FMRs. Rents for tenants or units covered by Section 8 contracts may rise to the level needed to support the new financial structure. Additional Section 8 assistance would be provided first to very low-income tenants and then, as needed, to tenants between 50 percent and 80 percent of area median income. The Committee does not believe that all projects will necessarily need additional Section 8 assistance for tenants between 50 percent and 80 percent of area median income. Requiring tenants between 70 and 80 percent of area median income to pay a uniform rent (in accordance with existing regulations implementing ELIHPA) would clearly be explored prior to providing Section 8 assistance to such tenants.

Termination of Low-income Affordability Restrictions: The Committee bill would establish specific criteria for approving plans of action that seek termination of the low-income affordability restrictions. The criteria would essentially mirror the criteria contained in ELIHPA (as amended by the McKinney Homeless Assistance Amendments of 1988). The HUD Secretary could approve such a plan of action upon finding that the plan satisfies long-established national objectives. Specifically, the Secretary must find that implementation of the plan of action would not (1) create hardship for current tenants or displace them where comparable and affordable housing is not readily available and (2) materially affect the general supply of low-income housing in the market area, lessen the ability of low-income people to find housing near job opportunities or reduce housing opportunities for minorities.

Resident Homeownership: The Committee bill would provide the Secretary with considerable flexibility to facilitate conversion of properties to resident ownership, in recognition of the strong commitment of the current Secretary to this concept as well as the willingness and ability of resident organizations in certain properties to pursue this objective. This resident capacity is evidenced by the purchase of Northgate-Greenfield Apartments in Burlington, Vermont by a nonprofit group with significant resident involvement, as well as by several other purchases now in process.

However, the Committee bill's primary objective is to preserve the at-risk inventory for use by very low, low and moderate income persons. In some cases, there may be a conflict between the most economically viable form of resident homeownership, especially in a condominium form of ownership, and the interests of very low income residents. If there is such a conflict, the need to preserve affordable housing for very low income residents shall prevail.

Such a position will not prevent resident-oriented purchases from taking place. In fact, the residents of Northgate-Greenfield Apartments were among those pressing most firmly for the principle that the Apartments remain affordable housing for their remaining useful life. Other resident organizations that are preparing to purchase at-risk properties also expect to make similar commitments. According to the Low Income Housing Information Service, which is working closely with tenant organizations active in over 90 at-risk properties, there are no resident organizations at this time planning a resident or resident/nonprofit purchase that would not be fully inclusive of all current residents, and especially those of very low income.

Therefore, it is the sense of the Committee that nothing in Section 230 (Resident Homeownership Program) should be read to authorize the Secretary to approve a plan that would provide less protection or housing opportunity for all current residents, especially very low income residents, than would an approved rental plan for the same property. The Committee believes that this guideline will allow the Secretary and the various resident organizations the flexibility they need to meet widely varying project conditions, while preventing any action, however inadvertent and well-intentioned, that might deny housing to very low income persons.

Delegated responsibility: The bill would permit HUD to delegate authority for processing prepayment workouts to state agencies if certain conditions are met. The Committee encourages the Secretary expeditiously to delegate responsibility for processing individual project workouts to state housing agencies which request this responsibility. The Secretary should not deny delegated responsibility unles there is demonstrable evidence that the state housing agency's administrative plans are inadequate and the capacity to perform the required work is insufficient.

In many of the states in which the prepayment problem looms largest, the state housing finance agencies were involved in finacing a significant portion of the subject projects. Many of these state housing agencies have conducted detailed analyses of the assisted housing inventory in their state. Some have already gained substantial administrative experience in processing and facilitating individual project workouts. These State housing agencies frequently have continuing oversight of project management and on-going working relationships with the tenants and owners. Preservation of these projects for low-income use is a subject of intentse interest in these states. This familiarity with the character of the projects, their importance to the housing needs in these states, and the resources needed to preserve them will facilitate expeditious workouts. The Committee recognizes the high quality of these agencies in vesting them with this responsibility.

### *Subtitle B—Low Income Rental Assistance*

*In General.*—The Committee bill would make a number of revisions to the Section 8 rental assistance programs. The revisions generally take 3 forms. First, the Committee bill would reduce the overlap between the voucher and existing certificate programs. Vouchers would be made the primary vehicle for tenant-based rental assistance. Rental certificates would be made the primary vehicle for project-based assistance, to be used largely in conjunction with affordable housing developed under the Housing Opportunity Partnership (HOP) program.

Second, the bill would address the major deficiencies which have undermined the efficacy of the voucher and certificate programs: (1) the failure of the voucher program to ensure affordability for a large portion of voucher recipients; and (2) the failure of the certificate program to give recipients access to an adequate protion of local housing markets.

Finally, the bill would make a number of miscellaneous revisions to the rental assistance programs to respond to problems primarily raised during hearings held by the Housing Subcommittee.

Fair market rents: Under existing law, HUD annually publishes fair market rents (FMRs) by bedroom size for all metropolitan areas and non-metropolitan counties, some 2,800 jursidictions in all. The FMRs are based on information derived from the decennial Census, the American Housing Survey and the rent component of the Consumer Price Index.

The Committee intends, that the fair market rent shall equal the amount necessary to rent privately-owned, decent, safe and sanitary housing with suitable amenities. The Committee believes that the establishment of realistic fair market rents is vital to the success of a rental assistance program. When fair market rents are set too low, large portions of a rental market are made unavailable, patterns of racial and economic segregation are exacerbated, and poor families are prevented from living near good jobs, schools and transportation. When fair market rents are set too high, federal rental assistance may have an inflationary effect on local rents and, as occurred with the Reagan Administration abuses of the Moderate Rehabilitation program, certain owners may receive excessive subsidies.

The Committee is deeply concerned by evidence that the Reagan Administration persistently set fair market rents too low in many localities. One change in regulation had an especially pernicious impact. Prior to 1983, the definition of fair market rent was the 50th percentile rent paid for standard units by recent movers, excluding public housing and newly constructed units. In 1983, the Administration without justification lowered the definition to the 45th percentile rent. The pervasive establishment of low fair market rents has hindered the ability of many local jurisdictions to administer effective rental assistance programs where the need is greatest. The Committee intends and expects the Secretary to reinstate promptly the earlier definition of fair market rent.

The Committee has also been made aware of problems created when one fair market rent is established for a large area that includes submarkets with wide variations in rents. In many non-metropolitan jurisdictions, HUD has set one fair market rent for large geographical areas. This practice in some cases has made rental assistance unavailable in whole counties. Similar problems affect major metropolitan areas that have widely varying housing costs: one fair market rent is much too high for some neighborhoods and much too low for others. The problem often remains even when exception rents are allowed.

The Committee bill therefore would permit a state or locality to recommend to the Secretary an alternative fair market rent schedule that more precisely reflects rent variations in submarkets within its jurisdiction. The Secretary would be authorized to adopt the alternative schedule upon finding that the alternative would better achieve national housing goals, such as broader housing opportunities, more proximity to employment and education opportunities for low-income households, or greater access to decent, safe and sanitary housing for families with special needs. The Committee intends and fully expects that public housing agencies will serve as the agents of participating jurisdictions in seeking alternative fair market rent schedules. The Committee expects the Secretary to exercise its discretion consistently with its affirmative duties under the Fair Housing Act, approving higher FMRs or alternative schedules where it is demonstrated that the previous FMRs have not successfully promoted a wide range of locational choice.

Vouchers: Under the voucher program, the federal subsidy is generally fixed at the difference between 30 percent of a tenant's adjusted family income and a payment standard. The payment standard is based on the published Section 8 existing fair market rent for the area. Tenants in units renting below the payment standard are allowed to pocket the difference. This is designed to give tenants a "shopping incentive" to rent units below the payment standard. Alternatively, tenants in units renting above the payment standard must pay the additional amount. No upper limit is placed on how much the tenant can pay for rent.

Vouchers were first authorized by Congress on a demonstration basis in 1983. Since that time, funds for more than 200,000 vouchers have been appropriated.

A constant stream of government reports, hearing testimony and anecdotal evidence have identified several serious shortcomings in the current design of the voucher program. Of greatest concern to the Committee is the program's demonstrated failure to ensure that the rent burdens of very low-income families are reasonable and affordable. The most widely cited study—an interim evaluation by Abt Associates released in June 1987—found that 48 percent of voucher holders were paying more than 30 percent of thier adjusted income for rent. An incredible 25 percent had rent burdens greater than 40 percent of their adjusted income. As confirmed by a GAO report released in February 1989, the problem was particularly acute in tight rental markets. In Westchester and Rockland Counties, New York, for example, the average voucher family rent burdens for two bedroom apartments averaged 67 percent of income. The Abt and GAO findings have been confirmed repeatedly by testimony at Committee hearings, correspondence to the Committee and informal conversations between local experts and Committee staff.

A particularly troubling aspect of the GAO study was the finding that, in several instances, landlords were charging voucher tenants higher rents than certificate tenants occupying similar units within the same project. The finding confirmed early predictions that the absence of any procedures to limit rents within the voucher program would lead to "rent gouging". As discussed below, recent HUD regulations—which would be codified and expanded in this bill—should guard against this unacceptable practice.

The Abt and GAO studies also reported the inadequacies of the voucher "shopping incentive". As originally devised, the voucher shopping incentive was intended to encourage recipients to shop for housing best suited to their needs and to make choices between housing and other expenditures. In practice, however, the incentive most often benefits tenants who simply continue to rent the unit they occupied before receiving the voucher. Since in-place renters, on average, pay rents that are less than the fair market rent standard, voucher recipients who stay in place generally pay less than 30 percent of their adjusted income for rent. This additional subsidy provided to in-place renters drives up the cost of the program beyond what is needed to achieve a federal housing objective.

The Committee bill would address the concerns expressed about the voucher program in a number of ways. First, the bill would require public housing agencies to keep records of the rent burdens of voucher recipients within their jurisdiction. If, during a given fiscal year, more than 10 percent of a jurisdiction's voucher holders have excessive rent burdens, the local agency would submit a report to HUD describing the reasons for the problem. The report should, in particular, specify any evidence that the fair market rents for the area have been set too low, thereby placing unreasonable rent burdens on tenants. The Secretary would be required to submit an annual report to Congress identifying the agencies that have submitted reports, summarizing and evaluating the reports and including recommendations for legislative or administrative actions that could rectify the problem. The Committee expects that, in cases where a local agency has demonstrated the inadequacy of the fair market rents, the Secretary will not just recommend but will take administrative action to adjust such fair market rents. The Committee also expects that the Secretary will revise the voucher regulations to enhance tenant affordability. For example, existing regulations permit public housing agencies to set the payment standard as low as 80 percent of the relevant Section 8 Existing Housing fair market rent. That regulatory provision is contrary to Congressional intent. The Committee fully expects the Secretary to revise the regulation to ensure that the payment standard is set at the relevant fair market rent and is adjusted annually.

Second, the bill would require that rents for units occupied by voucher recipients be reasonable in comparison with rents charged for comparable units that are unassisted or assisted with certificates. The bill, in general, codifies restrictions that were contained in HUD's final voucher rule dated September 6, 1988. Public housing agencies would be required to review the rents for units under consideration by voucher recipients to ensure that the rents are reasonable. Proposed rent increases would also be reviewed. Agencies could disapprove a lease where they found rents or rent increases to be unreasonable. Public housing agencies would also be required to assist voucher recipients, at their request, in negotiating rents with an owner.

Finally, the bill would end the "shopping incentive" for tenants who use a voucher to rent the same unit in which they resided before receiving the voucher. Such tenants would, if they occupy an apartment that rents at or below the payment standard, simply pay the standard rent contribution, generally set at 30 percent of monthly adjusted income. The shopping incentive would continue to be provided to tenants who use the voucher to move to an apartment that rents below the fair market rent.

*Rental Certificates/Tenant Choice.*—Under existing law, the Section 8 certificate program fixes a tenant's rent contributon at 30 percent of adjusted family income. Unless HUD or the public housing agency makes an exception, the gross rent charged by an owner cannot exceed the fair market rent that HUD establishes for the area. The federal subsidy payment is the difference between the tenant contribution and the gross rent.

The Committee recognizes that some tenants might have sound reasons for wanting to pay more than 30 percent of adjusted income in order to rent units above the fair market rent. For instance, a tenant might want to pay extra for an apartment that is near job or a desired school. A positive element of the voucher program is that it provides this flexibility.

The Committee bill would amend the certificate program to give families greater ability to "shop around" and find housing in neighborhoods of their choice. A public housing agency could permit a tenant to pay more than 30 percent of income to live in housing renting above the fair market rent. However, a public housing agency could approve this for no more than 10 percent of a jurisdiction's annual allocation of incremental rental certificates, only after tenant notification, and only if the state or locality determines after investigation that the rent charge is fair.

If a public housing agency approves these higher rent contributions for more than 5 percent of its annual allocation of rental certificates, the state or locality would be required to submit a year-end report to the Secretary describing the reasons for the exceptions. The report would have to include any evidence that the exceptions were made necessary by an inadequacy of the fair market rents established for the area. As with the voucher reports described above, the Secretary would be required to submit an annual report to Congress identifying the agencies that have submitted reports, summarizing and evaluating the reports and including recommendations for legislative or administrative actions that could rectify the problem. The Committee expects that, in cases where a local agency has demonstrated the inadequacy of the fair market rents, the Secretary will not just recommend but will take administrative action to adjust such fair market rents.

Mode of assistance: Rental assistance has been used traditionally to make rental housing affordable to tenants in two different ways. Tenant-based rental assistance enables a low-income family to rent an existing apartment of their choice. When the family moves within a local area, the rental assistance moves with them. Project-based rental assistance enables an owner to construct, rehabilitate or preserve an affordable housing project. When a family moves out, the rental assistance remains available for another low-income family that is eligible to move in.

Under existing law, vouchers are exclusively used as tenant-based assistance. Certificates serve multiple purposes. The existing certificate program, although originally devised as a tenant-based program, has increasedly been used in recent years to provide project-based rental assistance. Section 148 of the Housing and Community Development Act of 1987 authorized a local public housing agency to use up to 15 percent of its Section 8 certificates for project-based assistance. In addition, project-based certificates are used to preserve the existing stock of low-income housing, either by maintaining the affordability of privately-owned, federally-assisted housing or by replacing public housing that is lost through demolition or disposition.

The Committee bill would make one significant change to the mode of assistance provided by existing programs. The bill would remove the existing 15 percent limitation on the project-basing of existing rental certificates. The Committee believes that such a limitation is arbitrary and could severely undermine the ability of State and local jurisdictions to carry out housing strategies effectively. In particular, the Committee is concerned that the HOP program—which envisions rental assistance being provided to tenants below 50 percent of area median income—could be crippled by such an arbitrary limitation on project-basing of certificates.

The bill would also require owners who receive project-based rental certificates to adopt written tenant selection procedures that are acceptable to the Secretary. Such a requirement is necessary since, under the project-based subsidy format, owners have the discretion to allocate scarce federal housing funds to particular applicants. Such allocation must be fair and consistent with the purpose of providing housing for very low-income families. Owners should be able to reject applicants only if they are ineligible for the program or for reasons reasonably related to their ability to perform the lease obligations of a subsidized tenancy. Tenants must be promptly informed in writing of the grounds for any rejection. The Committee believes that such statutory provisions are necessary because of the widespread arbitrariness that has reportedly beset the admissions process in projects developed under the older project-based Section 8 programs and because of the Department's failure to impose rational regulations to ensure that needy applicants are not unfairly excluded from a program designed to benefit them. The requirement for notification is intended to apply only in the case of a prospective tenant whose application is considered in sequence and not approved. The requirement is not intended to impose unreasonable costs on management of projects that have long waiting lists by requiring written notice to prospective tenants whose applications remain pending when vacancies have been filled.

*Distribution of Certificates.*—The distribution of certificates under current law generally follows a four-step process. The Secretary distributes rental subsidies among HUD regional offices using a fair-share formula. Regional offices, in turn, distribute the subsidies among their field offices. HUD field offices then invite local public housing authorities to apply for certificates. This invitation specifies the number of units that can be made available for the area. Finally, the local housing authorities submit proposals and are awarded their allocations of certificates by the HUD area office.

In practice, the distribution of certificates contains many bureaucratic steps but few rules. Authorities are invited, applications are submitted, documents are exchanged, time is consumed—often with little discernible reference to local needs or the ability of authorities to address such needs. Public housing authorities rarely know why they have received a given level of rental assistance. And it is very difficult for a locality to plan ahead.

The Committee believes that the current method of allocating certificates does not adequately serve the requirements of an effective housing policy.

The Committee bill would require states and localities to develop comprehensive affordable housing strategies that are tailored to the needs of their jurisdictions. To plan and carry out effective strategies, states and localities will need to be able to coordinate the various forms of needed housing assistance: rental subsidies along with capital subsidies, credit enhancements, homeless assistance, and technical assistance. Participating states and localities would not be able sufficiently to plan for an effective housing strategy if they are subject to the vagaries of bureaucratic discretion for such a key element as rental assistance.

The Committee bill would, therefore, require the Secretary to allocate rental certificates in a way that enables participating jurisdictions to carry out approved housing strategies. Jurisdictions would be required to submit their recommendations for the allocation of rental certificates, based primarily upon the predicted need for project-based assistance in the coming fiscal year. The Secretary would establish procedures to ensure that the recommendations of jurisdictions are submitted in a timely fashion and contain sufficient information to enable the Department to make judicious allocation decisions. The Secretary would distribute an appropriate portion of the available certificates directly to local public housing agencies in a way that ensures that the approved strategies of participating jurisdictions can be carried out. These provisions reflect the Committee's conviction that each participating jurisdiction, as it is trying to carry out an approved affordable housing strategy, must (to the maximum extent practicable) be able both to predict the amount of rental assistance it will receive and to coordinate the use of that rental assistance in conjunction with the various other forms of housing assistance that are needed to carry out affordable housing strategies.

*Contract Term.*—The length of contract terms for rental assistance have varied over time and from program to program. In general, project-based rental assistance has been obligated for 15 years or longer. An exception has been loan management set-aside certificates, which are allocated to financially troubled projects and usually carry terms of 5 years or less. Existing housing certificates originally carried 15-year terms but since fiscal year 1988 have carried 5-year terms. Vouchers are structured to have 5-year contracts.

The Committee bill would, in general, continue the 5-year contract term for certificates and vouchers, with two major refinements. First, the bill would authorize the Secretary (to the extent approved in appropriations acts) to provide vouchers and certificates with terms of less than 5 years if such rental assistance is used to renew expiring contracts. The Committee intends that this flexibility shall be used only to achieve long-term stability in the stream of contract expirations. Such contract expirations will become a severe problem beginning in 1991. The clear policy of Congress is to renew each contract when it expires. The difficulty is that those expirations are now due to come in a very uneven pattern from year to year. And if all expiring contracts are renewed for the same length of time, that uneven pattern would be replicated indefinitely into the future. Congress would have to make erratic changes in funding from year to year just to maintain a steady availability of rental assistance.

The Committee bill would direct the Secretary to smooth the pattern of expirations in future years. By using some certificates or vouchers with terms of less than 5 years, the Secretary could "cut the peaks and fill in the valleys" and, in time achieve a steady level of expirations. The Committee bill would require the Secretary to prepare a multiyear plan for achieving a smooth pattern of required funding for renewal of expiring contracts and to have that plan approved periodically in appropriations acts. The Committee makes it clear that the authority to enter into contracts for periods less than 5 years is to be exercised only insofar as is necessary to achieve more constant levels of funding for contract renewals. The Committee does not intend that the authority be used, for example, to inflate in the short-term the number of incremental vouchers or rental certificates or to shorten the period of contractual commitments to public housing authorities for reasons other than achieving a smooth pattern of funding for contract renewals. The Committee also makes it clear that the authority provided in section 521(h) could not be used in any way to diminish the Secretary's responsibility to renew expiring contracts and to provide incentives for retaining the low-income use of federally-assisted housing for the longest feasible time consistent with the purposes of this Act.

Second, the bill addresses a problem that a short contract term creates for project-based rental assistance, particularly in cases where the availability of rental assistance is crucial to project financing. Several witnesses have pointed out that a 5-year commitment of rental assistance may not provide sufficient comfort to a lender who is considering whether to provide long-term financing to a project. Other observers have reported that, in a number of cases, long-term financing was provided to projects that had short-term commitments of rental assistance. The Committee intends that the Secretary seek ways to overcome any problems created by a mismatch between the commitments for long-term low-income affordability required by the bill and the 5-year contract terms for project-based rental certificates.

The Committee bill provides explicit authority for one solution. The bill would authorize a public housing agency to enter into contingent agreements that may be necessary to permit project underwriting to take appropriate account of the availability of project-based rental assistance. The public housing agency would be authorized to make an upfront, contingent commitment to an owner to renew rental assistance contracts, in 5-year increments insofar as is practicable, for a total number of years that the public housing agency determines is appropriate to achieve long-term low-income affordability. The agency's commitment could be made contingent only on the availability of a sufficient number of rental certificates as provided in appropriations acts. That commitment would have to be in exchange for the owner's binding commitment to accept such contract renewals when offered and to maintain low-income affordability of the project so long as rental assistance is provided. The Committee intends that the Secretary will ensure that these agreements will be used to achieve long-term low-income affordability and not to facilitate the termination of such affordability.

*Tenant Preference Rules.*—Existing law establishes statutory preferences for tenant selection under the voucher and certificate programs. Specifically, the law requires that preference be given to families that, at the time they are seeking assistance, occupy substandard housing, are paying more than 50 percent of family income for rent or are involuntarily displaced. A public housing agency is permitted to provide up to 10 percent of its available rental assistance to eligible families without regard to the statutory preference categories. This small exception is intended to enable the public housing agency to meet locally defined needs and objectives, including the need to select eligible families from the waiting list largely in the order they have applied.

The Committee bill would amend the exception to the statutory preferences in two respects. First, the bill would require public housing agencies (for the portion of rental assistance that can be allocated without reference to the federal preference categories) to establish formally a system of local preferences that responds to local needs and priorities. This local preference system would be established after public hearing and would need to be in writing to enable public review.

Second, the bill sets forth an exemplary list of the types of local preferences that a public housing agency might establish. The list is not meant, in any way, to inhibit the discretion of public housing agencies to establish preferences that respond to local needs and priorities. It does, however, illustrate the Committee's concern about particular housing problems that have been brought to the Committee's attention. The growing relationship between the lack of affordable housing and the separation of children from families and their placement into out-of-home care is one such issue. A study of Black children entering foster care in five metropolitan areas, conducted by the National Black Child Development Institute, found that inadequate housing was a major reason for placement into foster care in 30 percent of the cases they reviewed. Eleven percent of the families were homeless or living in shelters when their children were removed. Thirty-five percent of all families studied had "doubled up" with relatives or friends prior to the child's placement into foster care. A 1985 New Jersey study found that homelessness was a primary reason for foster care placement in 19 percent of the cases reviewed, and a contributing factor in 40 percent of the placements.

The study also found that inadequate housing was one of the three major barriers preventing children from leaving care and returning to their families; in New York City, lack, of housing was the number one barrier to reunification of children with their families.

Under the Committee bill, public housing agencies would be encouraged to coordinate with child welfare agencies and other human services agencies in the identification of local housing needs and priorities and the establishment of preferences for the allocation of vouchers and certificates. The public housing agency, for example, could give priority status to eligible families whose lack of adequate housing has resulted in the placement of children in out-of-home care or is delaying their return to their families from an out-of-home care placement.

*Security-related Rent Increases.*—Existing law contains a limited mechanism for providing security-related rent increases within the Section 8 program. Section 9(c)(2)(B) of the 1937 Housing Act authorizes the Secretary to approve special adjustments to Section 8 rents for taxes, utilities and other similar costs. Existing regulations do not incorporate the "similar costs" category as grounds for permitting a special adjustment. As a matter of practice, the Department has waived the regulation on a case-by-case basis and approved special rent adjustments for such items as increases in insurance and security.

The Committee has heard numerous reports that the Department's current practice of providing rent adjustments for security purposes is woefully inadequate in the wake of increased drug-related activity in federally assisted housing. Owners claim that the waiver process is too cumbersome and time consuming to adequately respond to the drug problem. Owners also claim that different Field Offices use different criteria in determining whether to grant a waiver and special rent adjustment.

The Committee bill would, therefore, amend existing law to permit the Secretary to make rent adjustments for assisted housing projects located in a community where the prevalence of drug-related criminal activity has led to a substantial increase in a project's operating, maintenance and capital repair expenses. Such adjustments could cover the costs of maintenance, security, capital repairs and reserves that are needed for an owner to carry out an acceptable strategy for addressing the drug problem. Rent comparability standards could be waived for such adjustments.

The Committee understands that the Department is considering an amendment to the regulations that would include the "similar costs" language and specifically define insurance and security as examples of such similar costs. That regulatory amendment (and its expeditious implementation by the Department) may prove to be satisfactory and remove the necessity for this legislative provision. Yet the Committee has grown increasingly dissatisfied with the slow pace of administrative action and has included this provision to ensure that the problem is addressed within this legislative year.

*Expiring Contracts.*—The Committee has learned that a technical problems has prevented the orderly renewal of expiring contracts in certain circumstances. Existing HUD regulations prohibit public housing agencies from entering into housing assistance payments (HAP) contracts or leases on behalf of certificate holders for periods of less than twelve months prior to the expiration of the annual contributions contract. Furthermore, the regulations require that the terms of both the HAP contract and the lease must begin at least one year prior to the termination of the annual contribution contract.

These regulations can cause attrition of Section 8 certificate assistance in a jurisdiction during the year preceding the termination of the annual contribution contract. To avoid this occurrence, the Committee bill would require the Secretary to permit public housing agencies, where the applicable annual contributions contract is within one year of its expiration date, to enter into HAP contracts with terms of less than 12 months in order to avoid disruption in assistance to eligible families.

*Termination of Tenancy.*—The bill includes language to permit evictions from Section 8 Existing Housing for criminal activity, including drug related criminal activity. It is based on a similar provision contained in the Anti-Drug Abuse Act of 1988 governing public housing leases.

As the Secretary has recognized in promulgating the regulations implementing that Act, the ultimate decision to evict a family "remains a matter for good judgment by the PHA or the RMC based on the factual situation. The statutory policy does not restrict the PHA's or RMC's exercise of wise and humane judgment, weighing the interests of all concerned." (54 Fed. Reg. 15,998, April 20, 1989) For example, the Committee assumes that if the tenant had no knowledge of the criminal activity or took reasonable steps to prevent it, then good cause to evict the innocent family members would not exit.

The Committee understands that HUD has issued a fianl rule that allows PHSs to terminate Section 8 benefits to tenants who do not report all of their income. This rule allows the PHAs to terminate the benefits to tenants who *sell* drugs since this income is normally not reported. HUD has now also issued a proposed rule that expands this authority to terminate section 8 benefits to drug *users,* as well. The Committee supports these efforts by the Department.

*Tenant Protection.*—The Committee bill would require an owener, prior to terminating the tenancy of any voucher or certificate holder, to give written notice to the tenant of the grounds for such action. The Department has historically failed to mandate this basic protection by regulation, even though it is implicit in the statutory scheme and essential to the statute's purpose. Without notice of the specific factual and legal grounds for termination, the tenant cannot make an informed decision about whether to stay and contest the eviction or, in the case of a tenant-based certificate or voucher, take the assistance elsewhere.

*Opt-Outs.*—Section 262 of the Housing and Community Development Act of 1987 requires owners to notify the Secretary and tenants not less than one year prior to terminating most Section 8 contracts. The Secretary is also required to review the notice to consider whether the termination is lawful and whether additional actions could be taken to avoid termination. Section 262 was enacted on an interim basis and is set to expire on September 30, 1990.

The bill would make three major revisions to the 1987 Act provisions. First, the bill would make these provisions permanent law. The problem of owners seeking to "opt-out" of their Section 8 contracts is becoming increasingly significant. The Section 262 provisions are a vital tool in the Federal government's efforts to either induce owners not to opt-out or to prepare tenants for a smooth transition to alternative rental assistance.

Second, the bill would expand upon the information that the required notice must contain. The Committee recognizes that termination of tenancy covers two diverse situations: (1) where an assistance contract is set to expire and an owner wants to renew the contract; and (2) where an owner seeks to terminate the assistance contract (i.e. "opt-out".) In the former situation, the sole issue is the government's ability to renew the contract. The Committee has learned that notices to tenants have not made this distinction and have created much confusion and consternation among existing tenants. The committee bill would require, therefore, that notices include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding any termination. To the extent possible, owners should try to indicate their intended action if the Secretary, as expected, is able to renew the contract. In all cases, the notice should make clear that tenants will continue to receive assistance, either under a renewal of the existing contract or under another program and that they should not move out as a result of the notice.

Finally, the bill would require owners to provide written notice to each tenant of the Secretary's decision regarding the lawfulness of the termination. If the termination is determined to be lawful, such notice should also inform the tenant about the process by which replacement assistance will be provided. The owner or the Department should also provide written notice to each tenant of any agreement to renew the contract.

Tenant representatives have recently informed the Committee that some owners are renting units in Section 8 projects to non-eligible tenants in anticipation of contract termination. The Department's response has been deficient in two respects. First, the Department has failed to ensure that owners are complying with their obligations under Section 8 HAP contracts. Second, the Department appears willing to provide replacement vouchers only for tenants who are living in a Section 8 project when an opt-out occurs, rather than for the full number of units covered by the relevant HAP contract.

The Committee fully expects the Department to ensure that owners are providing Section 8 housing to the full extent of their HAP contracts. The Committee also intends, in the event an owner decides to opt-out, that rental assistance be provided to replace the full number of Section 8 units lost through contract termination.

The Committee also understands that the Department has taken a position that owners terminating a contract for rental vouchers or existing rental certicates do not have to provide a 90-day notice to each tenant. That position is clearly contrary to the plain language of Section 262 of the Housing and Community Development Act of 1987.

### *Subtitle C—Operation Bootstrap*

The Committee bill establishes a demonstration program to assess the administrative feasibility and policy implications of full-scale implementation of "Operation Bootstrap" as proposed as part of the Administration's HOPE initiative. The program is intended to encourage communities to develop and implement programs to help unemployed or underemployed members of low-income families become ecnomically independent through the cooperative efforts between the public and private sectors.

Project Self-Sufficiency: Operation Bootstrap builds on the Department's earlier Project Self-Sufficiency program which was created by regulation in the mid-1980's and then evolved into the current program that provides 3,000 Section 8 certificates to eligible participants.

According to a HUD report in August 1988, more than 400 communities applied to participate in the Project Self-Suficiency demonstration program and a total of 155 communities were selected. As of May 1988, 9,928 families (out of a pool of 29,660 applicants) had participated and 42 percent had completed the program. It is not clear from the report why some families were not chosen or why families did not complete the program.

The report stated that the more disadvantaged participants required more intensive and prolonged assistance, frequently up to three to five years of concentrated services to become fully self-sufficient. In addition, the report noted that "a significant minority [of communities] found that the local training program was unable to help PS-S participants because of eligibility requirements, lack of funds for training, training options unsuited to participants' needs, lack of funds for nontraditional training programs, mismatched budgetary cycles, and inadequate help with developing job placement strategies."

Administration's proposal: The Administration's proposal would have required housing authorities to agree to establish Operation Bootstrap programs for all new voucher and Section 8 recipients. Failure of all family members to agree to participate would have been grounds for denial of housing assistance and removal from the waiting list of the entire family under the proposed language. The Committee determined that this requirement would ignore a variety of extenuating circumstances and, absent an effective appeals procedure, would have created undue and possible arbitrary hardships on families.

The Committee recognizes the benefit of providing support services along with rental assistance. However, the Committee does not believe it would be wise suddenly to impose a nationwide requirement that makes the availability of rental assistance in an area dependent upon a public housing agency's ability to guarantee the availability of supportive services. Funding for support services are very limited, as are funds for housing assistance. Services are thus available for only a small percentage of the eligible. The Committee is not aware of any evidence that the selection system for awarding housing assistance is more appropriate than the selection systems for supportive service programs. The Administration proposal would have denied housing assistance to an area unless the service providers agreed to deny supportive services to eligible persons who were not receiving housing assistance. In some cases, it may have required the elimination of supportive service programs designed for special needs. Public housing agencies are usually not well positioned to require other public agencies to make such sweeping changes in policy.

There is substantial evidence that most communities do not have the resources or capacity to meet the requirements of a mandatory program. The communities that participated in the Project Self Sufficiency did so voluntarily, most likely because they could best absorb the new demand on local training programs and other eligible activities in the program. The communities that did not volunteer to participate, however, refused to do so because they did not have adequate support services. The proposed program would have required all communities to participate, regardless of their capacity.

The Committee is mindful of the limited local resources to accommodate existing service needs. Many of these services are already over subscribed. The Committee feels that the program should be expanded slowly to avoid over burdening local resources absent additional resources which are beyond the Committee's jurisdiction. Further, such a program should remain on a voluntary basis so that regions lacking adequate services are not forced to participate.

Committee bill: The Committee has based the Operation Bootstrap and Project Self Sufficiency demonstration programs. It increases the units of rental assistance available from 3,000 to 5,000 vouchers which have been available in the previous demonstration program. It includes application and selection criteria requirements that reflect the Committee's concerns about varying capacities among communities.

The Committee would expect the Secretary to scrutinize applications which indicate that existing support services are already fully subscribed. The Secretary should ensure that current users of these services are not put in a position of having to complete for scarce training programs with participants of the program.

In addition, the bill would require the Government Accounting Office to conduct a study of federal housing assistance and economic self sufficiency programs. The Committee would expect this report to study ways to expand the program without adversely effecting the services currently provided.

## TITLE VI—HOUSING FOR PERSONS WITH SPECIAL NEEDS

The Committee bill would embrace the notion of Supportive Housing for persons with special needs—especially elderly persons, persons with disabilities and homeless individuals. The Committee heard unanimous testimony that, for such persons, HUD's mission must expand beyond the traditional "bricks and mortar" issues of construction and finance. Adequate housing must be supportive housing, properly designed both to meet the physical needs of such persons and accommodate a range of supportive services.

Supportive housing can take many forms. For homeless families living in emergency shelter and transitional housing, it means the provisions of case management assistance to help these struggling families make the transition back to independent living. For persons with disabilities, it means access to a wide array of housing opportunities with appropraite services available either on-site or in the general community. For frail elderly persons living in public and assisted housing, it means a building (and individual apartments) that are designed to accommodate their physical frailties and sufficient congregate space to accommodate the necessary supportive services. For large families with children living in public housing, it means ready access to child care, employment counseling and educational opportunity.

Two major obstacles impeded the development of supportive housing during the past decade. The first obstacle, hopefully an historical anomaly, was HUD's demonstrated hostility to expanding the supply of affordable housing. Successful programs like Section 202 Housing for the Elderly became mired in bureaucratic over-regulation, causing the most minute and trivial aspects of project planning and construction to be examined by HUD regulators. The notion of supportive housing was completely derided as elderly housing was built without regard to the physical and service needs of tenants.

The second major obstacle, more permanent in nature than the first, is the divided administrative responsibility for housing and supportive services. While HUD has responsibility for public and assisted housing, the Department of Helath and Human Services and the Department of Labor have primary responsibility for a wide variety of supportive service and training programs. This divided responsibility is generally replicated at the state and local levels. In addition, legislative jurisdiction is also split among different Congressional committees.

Recent legislation has tried to overcome bureaucratic and institutional obstacles to facilitate the development of supportive housing. The Stewart B. McKinney Homeless Assistance Act of 1987, the product of deliberations by multiple Congressional committees, established the Supportive Housing Demonstration program to forge a direct link between housing and supportive services for homeless persons and families. The Housing and Community Development Act of 1987 likewise revised the Section 202 program for persons with disabilities to assure that an appropriate range of services were provided to residents.

The Committee bill would further expand upon these recent efforts. The Section 202 production program for the elderly would be substantially revised to ensure that housing developed under the program would be designed to accommodate the special physical and other needs of elderly persons. The Section 202(h) program for persons with disabilities would be fully separated from the elderly program to allow the program to better address the needs of such persons. The McKinney programs would be largely consolidated and distributed by formula to states and localities, giving those governments the predictability and flexibility to address the various facets of homelessness. "Project Retrofit" and HOPE for Elderly Independence would leverage housing and supportive service funding to meet the needs of frail elderly persons. Likewise, "Project Independence" and "Operation Bootstrap" would leverage housing, supportive service and employment training funds to help families with children make the transition to independent living.

The Committee accepts the divided administrative responsibility for housing and supportive services programs as an institutional given; as two academic experts have written, "HUD should be allowed to do what it does best, namely administer federal housing policy." It is clear, however, that HUD and HHS programs, as well as federal housing and supportive service legislation, need to be better coordinated. To this end, the Committee has worked closely with the Senate Labor Committee to expand existing service programs and devise new ones to meet the needs of tenants in public and assisted housing.

The Committee is very concerned with the need to provide at HUD a highly visible position with the authority, clout, and resources to effectively coordinate the various housing and supportive service needs of populations with special housing needs. As introduced, the Committee bill included language to establish an Assistant Secretary for Supportive Housing who would be responsible for the administration of HUD programs for elderly persons, persons with disabilities and the homeless.

That provision has been deleted from the Committee bill because of (1) the Committee's belief that the Secretary should have general control over the organization of the Department and (2) the clear sense that this Administration is becoming increasingly aware of the need for effective coordination of the various federal programs for special populations.

Nevertheless, the Committee believes that the Secretary should seriously consider the creation, with the Departments of Labor and Health and Human Services, of an Interdepartmental Coordinating Council for Supportive Housing. Such a Council, to be chaired by the respective Secretaries, would establish a visible focal point for the coordination of federal housing and supportive service programs which could lead to improved program implementation and, on the basis of periodic reports, improved legislative initiatives.

### *Subtitle A—Supportive Housing for the Elderly*

*In General.*—The Committee bill would continue the program now authorized under Section 202 of the Housing Act of 1959 with substantial refinements to ensure the development of quality supportive housing. The Committee bill would reverse a series of policies and practices instituted by the previous Administration which have greatly constrained the ability of nonprofit sponsors to build housing that addresses the special needs of elderly persons. The combination of inadequate financing, rigid cost containment guidelines and heavy-handed bureaucratic interference brought the program to a virtual production standstill, accomplishing through regulation the program cutbacks that Congress repeatedly rejected throughout the 1980's.

As described below, the Committee bill would revise fundamental elements of the program to ensure that the Congressional objective of supportive housing is achieved in practice to the same extent it is defined in law.

*Financing Mechanism.*—The Committee bill would finance the production of supportive housing for the elderly with two types of assistance: capital advances and project rental assistance.

Under existing law, 40-year direct loans are made to nonprofit sponsors at interest rates that reflect the U.S. Government's average cost of borrowing. Once occupied, projects receive Section 8 rental subsidies, about 75 percent of which goes to pay principal and interest on the loan. Congress must, therefore, appropriate budget authority both to make the loan and then to repay it. Tenants contribute the highest of: 30 percent of adjusted monthly income, 10 percent of gross monthly income or the portion of a welfare payment designated for shelter.

The Committee believes that the current financing mechanism needlessly drives up the budget authority required for the program through administrative and interest costs associated with paying back the loan.

The Committee bill would, therefore, authorize the Secretary to provide non-interest bearing capital advances to nonprofit sponsors for 95 percent of a project's development costs. Repayment of a capital advance would not be required so long as the housing remains available for very-low income elderly persons. The bill would require that units developed under this program be made available for occupancy by very-low income elderly persons for not less than 40 years. The bill would allow the targeted Section 202 funds to be used in conjunction with other public and private resources to develop mixed-income facilities.

The Committee bill would also require the Secretary to enter into contracts for project rental assistance to fund the deficit between project income and the costs attributable to units occupied (or held for occupancy) by very low-income elderly persons. The rental subsidies would no longer need to service debt, thereby greatly reducing the budget authority associated with the program. The tenant rent contribution would mirror existing law.

The Committee bill would set the initial term of contracts for project rental assistance at twenty years. The bill would require the Secretary, to the extent approved in appropriation Acts, to extend any expiring contract for at least a five-year term. To facilitate the extension of expiring contracts, the bill would authorize the Secretary to make commitments to extend such contracts during the year prior to their expiration date.

The Committee intends that the costs that are eligible to be funded under contracts for project rental assistance be broadly delineated in regulations. The Committee bill would make special reference to one type of eligible cost. The bill would direct the Secretary to ensure that owners have the capacity to perform a number of functions critical to the provision of services to elderly residents. Specifically, owners would need to (1) assess on an ongoing basis the service needs of elderly residents; (2) coordinate the provision of services and tailor such services to the needs of residents; and (3) seek new sources of assistance to ensure long-term service funding. It is expected that in many cases owners would need to use project operating funds to employ additional management personnel to carry out these responsibilities. The Committee bill would make such costs (as well as other costs associated with building the necessary capacity) eligible for funding under contracts for project rental assistance.

*Limitations on Development Cost.*—The Committee bill would allow project financing to be based on the actual, reasonable costs of building and operating supportive housing for the elderly.

Under the current Section 202 program, HUD limits development costs on the basis of Section 8 fair market rents (FMRs). In essence, the rent that a project can receive limits the amount of financing that can be obtained. Where FMRs are low, projects cannot be developed. Where FMRs are high, needlessly high development costs may be allowed.

During the previous Administration, the Section 202 FMRs were consistently set at inadequate levels. According to one study, as many as 80 percent of the 363 fair market rent areas were experiencing difficulty in developing projects within the FMR limits. In 66 of the areas, projects were virtually impossible to construct.

The bill would replace the FMR limitations with development cost limitations that are based on currently prevailing costs of construction, rehabilitation and acquisition. The bill would require the Secretary to establish such cost limitations by market area for various types and sizes of supportive housing for the elderly. The Secretary would be required to publish a notice of the cost limitations in the Federal Register and to update the limitations on an annual basis to reflect changes in construction and acquisition costs.

The bill would require that the development cost limitations reflect a number of cost factors relating to the development of supportive housing for the elderly. Specifically, the bill would require that the cost limitations reflect (1) the cost of construction, reconstruction, or rehabilitation of supportive housing for the elderly that meets applicable State and local housing and building codes (including codes requiring elevators and sprinkler systems); (2) the cost of movables necessary to the basic operation of the housing; (3) the cost of special design features necessary to make the housing accessible to elderly persons; (4) the cost of special design features necessary to make individual dwelling units meet the physical needs of elderly persons; (5) the cost of congregate space necessary to accommodate the provision of supportive services to elderly persons; (6) for newly constructed housing, the cost of meeting HUD's energy efficiency standards; and (7) the cost of land, including necessary site improvement.

The Committee believes that the move to a cost-based system will ensure that all areas of the country can receive and use advances to develop elderly housing. It will also expedite production, since the use of the FMR system as a limit on development cost has been one of the major reasons for the long delays in moving projects to construction.

There is precedent for incorporating such cost limitations in the recent Department regulations governing the development of housing for persons with disabilities. The standard is equally appropriate for the development of elderly housing and will go far towards eliminating impediments under the present system.

*Cost Containment Issues.*—The Committee bill would use an incentive system to contain costs on the development of supportive housing for the elderly. The Committee bill would also overrule a series of existing regulations placing inordinate and unjustified restrictions on the development of elderly housing.

Under the guise of cost containment, the previous Administration established a series of restrictions that adversely affected the development and management of Section 202 projects. Regulations and guidelines were promulgated requiring that (1) 25 percent of units be constructed as efficiencies or studio units; (2) no more than 5 percent of a project's total space be used as congregate space including all kitchen and dining facilities, lobbies, recreational areas and other facilities; (3) preference be given to walkup apartments and buildings without elevators; and (4) lesser quality materials be substituted to bring projects within cost limitations. Nonprofit sponsors increasingly found themselves encountering a bureaucratic behemoth, seemingly more intent on preventing rather than promoting the development of decent supporting housing for the elderly.

The Committee bill would fundamentally reorient the focus of the elderly housing production program. The bill would promote the development of supportive housing that is designed from the outset to meet the special needs of elderly individuals and be responsive to their changing needs as they age in place. The Committee believes that many of the cost containment restrictions placed upon the program in recent years are antithetical to this overriding objective and, in many cases, prove more costly in the long term.

The restrictions requiring efficiency units and limiting common space are particularly counterproductive. Efficiency units have proven to be extremely difficult to market given the fact that tenants pay the same amount for rent regardless of unit size.

The limitation on congregate space is also counter to the notion of supportive housing. The use of community space for lounges, dining areas and community rooms is vitally important in facilitating the independence of older people. Such space contributes to the overall living environment and enhances the quality of life by enabling residents to remain both physically and socially active. Adequate congregate space is particularly essential in promoting both formal and informal support systems for frail elderly residents, many of whom my have "aged in place" in the development. Such space is necessary to accommodate the range of supportive services required by such individuals to maintain their independence and avoid unnecessary institutionalization.

Neglecting these concerns may save federal resources in the short term but inevitably creates the need for substantial investment in the long term. The creation of Project Retrofit demonstrates the costs associated with shortsighted design choices.

The Committee bill would require supporting housing for the elderly to be designed to meet the needs of elderly individuals. The bill would accomplish this objective, as mentioned above, by incorporating the costs associated with various design elements into the development cost limitations and by ensuring that the application and selection process explicitly takes into account the need for appropriate design.

The bill would also provide owners with an incentive to contain the cost of development. Owners who incur development costs that are less than the amount of financing would be entitled to retain 50 percent of the savings in a special project account. That percentage would be increased to 75 percent for owners who add energy efficiency features that meet certain criteria. The bill would also direct the Secretary to give owners the flexibility to design projects appropriate to their location and proposed tenant population within broadly defined parameters.

The Committee believes that the market approach to cost containment represented by these changes will prove to be more effective than having HUD officials micro-managing and second guessing the decisions of owners, architects and contractors. The Committee also believes that these changes will significantly reduce the intolerable processing and construction time associated with the development of Section 202 projects.

Applications: The Committee bill would establish minimum contents for applications for assistance under this program.

The existing statute is silent on the form and contents of applications for assistance. The regulations, in contrast, do provide guidance. The bill is intended to codify the most important regulatory provisions as well as incorporate new requirements more closely related to the objectives of supportive housing.

The Committee bill would require that applications provide at least the following information. First, the bill would require a description of the proposed housing. Second, the bill would require a description of the assistance the applicant is seeking. Third, the bill would require a description of the resources that will be made available to satisfy the matching requirement.

Fourth, the bill would require a description of (1) the category or categories of elderly persons the housing is intended to serve; (2) the supportive services, if any, to be provided to the persons occupying such housing; (3) the manner in which such services will be provided; and (4) the public or private sources that can reasonably be expected to fund or provide such services. It is expected that the types of supportive services provided would vary from project to project depending upon the individual service needs of eligible residents and the available resources of different jurisdictions.

Fifth, the Committee recognizes that owners may chose to serve different elderly populations. The bill would thus require the appropriate State or local agency to certify that the services identified by the applicant are well designed to meet the special needs of the elderly persons the housing is intended to serve. Thus, if an owner intends to serve frail elderly persons, the appropriate agency would need to certify that the services identified would help such persons live independently and avoid unnecessary institutionalization.

Sixth, the bill would require the public official responsible for submitting a housing strategy for the jurisdiction to certify that the proposed project is consistent with the approved housing strategy. A local official would need to provide such a certification where the locality is a participating jurisdiction under the HOP program. State officials would provide the certifications in all other cases.

The bill would also require the Secretary to apply the requirements of Project Retrofit to supportive housing that is intended to serve frail elderly persons. Applicants for such supportive housing would, therefore, need to provide information relating to the establishment of (1) professional assessment committees, and (2) any fees for the provision of services.

*Selection Criteria.*—The Committee bill would require the Secretary to establish selection criteria to govern the funding of supportive housing for the elderly.

The existing statute authorizes the Secretary to consider the extent to which assistance will assist in (1) stabilizing, conserving and rehabilitating neighborhoods; (2) providing housing for the elderly in neighborhoods in which they are experiencing significant displacement due to public or private investment; or (3) the substantial rehabilitation of structures have architectural, historical or cultural significance.

The Committee believes that the existing selection criteria no longer capture the principal objectives underlying supportive housing for the elderly. The Committee bill would, therefore, establish a new set of criteria that better reflect program purposes: expanding the supply of supportive housing that is designed to accommodate the special needs of elderly persons and provides a range of supportive services that are tailored to the needs of such persons.

The bill would require that selection criteria include a number of factors relating to (1) administrative capacity; (2) housing need; (3) project size and unit mix; (4) housing design and the physical needs of elderly persons; (5) service provision; and (6) housing design and the service needs of elderly persons. The Committee believes that HUD should not "look behind" the package of supportive services contained in a given application to determine whether the package sufficiently addresses the needs of elderly persons expected to reside in a particular supportive housing development. That assessment would have already been made by state and local agencies as expressed in the required certification.

*Matching Requirement.*—The bill would require each applicant to contribute at least 5 percent of the development cost of the housing units developed with Section 202 funds to assure the applicant's commitment to the housing. Acceptable contributions would be in three principal forms: cash, the value ot donated land or other real or personal property, and the present value of supportive services that the applicant will provide from private resources.

The existing regulations governing the Section 202 program requires a minimum capital investment of one-half of one percent (0.5%) of the mortgage amount, not to exceed $10,000. The Committee believes that the existing matching requirement is no longer adequate for two reasons. First, the major nonprofit sponsors involved in the program are large organizations that serve jurisdictions throughout the country. The Committee believes that these organizations have access to the type of resources that would be eligible for the match. Second, recent federal housing legislation has clearly focused upon maximizing the use of non-Federal funds in developing assisted housing. For example matching has been required under recently-authorized programs such as rental rehabilitation and McKinney homeless assistance. The HOP program contained in Title III of this bill also requires matching.

The bill would permit, however, the Secretary to waive or reduce the matching requirement in certain circumstances. The Secretary may conclude, for example, that a particular project might be located in a jurisdiction that has intense housing needs or has been underserved by the program in the past. Alternatively, the objective of promoting minority sponsorhip might be well served in a particular case. In any event, an applicant would still need to show that it has the capacity and maintain the housing before the Secretary could approve an application.

*Distribution of Assistance*—The Committee believes that, given the current level of Section 202 funding, the present fair share allocation system is counterproductive and inefficient. The Committee bill would, therefore, exempt the Section 202 program from existing fair share allocation rules.

Section 213(d) of the Housing and Community Development Act of 1974 sets forth the requirements for the allocation of funds under various HUD programs, including the Section 202 program. In general funds are allocated to each field office on the basis of a "fair share" distribution. From 20 to 25 percent of the funds are allocated for use in nonmetropolitan areas to meet rural housing needs.

The Committee believes that the fair share allocation rules no longer make sense for the Section 202 program. Severe budget cuts during the 1980's have led to small dollar allocations being made to HUD field offices. The field offices have responded by reducing the size of elderly projects. The average size of Section 202 projects serving the elderly was [100 to 150] units in 1978. The average size today is below 50 units. These reductions in project size have made it extremely difficult to deliver services to elderly residents in a cost-effective manner.

The Committee would, therefore, exempt the Section 202 program from the Section 213(d) allocation requirements. The Committee intends that the Department should select applications based on performance under the selection criteria, regardless of whether the project is located in a metropolitan or nonmetropolitan area. The Committee also notes that the bill would require HUD's selection criteria to include the extent to which the proposed size and unit mix of the housing would enable the applicant to manage and operate the project efficiently and ensure that the provision of supportive services would be accomplished in an economical fashion.

*Income Eligibility.*—The Committee bill would limit occupancy of units assisted under the revised Section 202 program to very low-income elderly persons. The bill would, however, permit mixed-income developments by allowing the units financed under Section 202 to comprise a portion of a structure funded by other public and private resources.

Pipeline: The Department's actions during the 1980's have created an extensive pipeline of stalled and delayed projects at the same time that the need for affordable housing has escalated. The current backlog of unconstructed projects primarily results from the inability of developments to comply with the cost containment guidelines and the limits imposed by the Fair Market Rents.

The Committee believes that the Department, under Secretary Kemp's leadership, has made a serious commitment to clear the pipeline. The Department is attempting to meet a goal of 16,000 construction starts by the end of this fiscal year through various actions. For example, pipeline projects will be allowed to take advantage of (1) a lower interest rate; and (2) the most currently effective Fair Market Rents. The Department has also authorized the provision of waivers for negotiated construction contracts on a case by case basis.

The Committee remains concerned that the administrative actions may still not allow construction of some projects in the pipeline to go forward. The Committee bill would, therefore, allow owners to take advantage of the new financing guidelines and development limitations to enable owners to expedite the completion of elderly housing approved under the old program.

### *Housing and Supportive Services for the Frail Elderly*

*General background.*—National housing policy has long emphasized service to older Americans. This emphasis has resulted from the convergence of three factors: (1) the need for a special housing environment for older people, (2) the high concentration of low-incomes among older renters, and (3) the "aging in place" of long-time residents of assisted housing. The cumulative impact of these factors is that roughly 40 percent of all federally assisted housing units are currently occupied by older people.

As the Committee looks to the future housing needs of the nation, it recognizes that the rapid aging of the American population will continue to require careful planning by policy makers. The number of older people is projected to increase from 30.4 million or 12.4 percent of the population in 1986 to 65.6 million or 21.8 percent of the population in 2030. Most of this growth, especially in the next two decades, will be among the oldest—those over 75 years of age.

The most acute housing needs will continue to be concentrated among the oldest old, women living alone, minorities, and rural elders. Housing costs as a percentage of income tend to rise with advancing age for owners and renters. Older women renters currently pay, on average, 37 percent of household income on rent—a percentage that rises with age. For older black women renters living alone (as the overwhelming majority do), the percentage rises to above 50 percent.

The same factors that predict housing needs are also likely to be associated with multiple health, income, and social needs. To address the multiple needs of older and disabled people will require a more integrative approach to services and housing that expands the mission of the nation's housing programs beyond the narrow "bricks and mortar" issues of construction and finance.

Recent trends in long-term care policy for frail older and disabled people heighten the need for supportive housing environemnts. As long-term care policy moves away from institution-based care toward home—and community-based alternatives for people with disabilities, housing policy must play an increasingly important role in assuring that suitable alternatives are in place. A failure to provide supportive housing opportnities would paradoxically result in more individuals joining the ranks of the homeless, while needlessly confining too many disabled people of all ages to institutions.

The growing recognition of the need to refucus on services and housing is reflected in proposals originating both in Congress and in the Administration. In order to promote innovative approaches, the National Affordable Housing Act contains a two-pronged initiative toward integrating supportive services and housing. For older residents in federally-assisted housing projects, the Committee bill would create "Project Retrofit," a proposal that builds on the successful experience of the Congregate Housing Services Program (CHSP) in providing project-based services. The Committee bill would also authorize the "HOPE for Elderly Independence Program" recommended by the Administration, a proposal that builds on the success of the voucher program in assisting older people who want to remain in homes they have been renting in the community.

### *Project Retrofit*

*Background.*—Currently, over 1.5 million older households are assisted by federal housing programs, many in age-segregated projects designed specifically to meet their needs. Through a variety of programs at HUD and the Farmers Home Administration (FmHA), the federal government has now created a substantial network of apartment complexes to serve older people numbering more than 10,000 projects nationwide.

The largest of the project-based programs serving older people is the public housing program. Though not generally considered an elderly program, over 40 percent of public housing units (roughly 600,000 units) are occupied by older poople—roughly half of whom live in projects for older poeple. A 1986 study of 100 of the largest pubic housing authorities sponsored by the Citizens Housing and Planning Association found that more than one-third of the residents in elderly projects were over 75 years old, and over three-fourths were living alone. Managers felt ill-equipped to deal with the needs of frail residents. As many as half could not name any regular service presence for their facilities, either from in-house staff or from external providers. More than three-fourths of the managers surveyed reported tenant service needs that they could not handle.

The Section 202 program, which provides over 230,000 units of specialized housing for older and disabled people, has had a similar experience. According to a 1988 survey conducted by the University of Illinois and released by the House Aging Committee's Subcommittee on Housing Consumer Interests, projects occupied before 1974 had an average tenant age of more then 77 years. More than 35 percent of the residents of these projects were over the age of 80. While Section 202 projects have been more services-oriented than public housing, recently built projects have less congregate space and provide fewer services than older projects because of recent cost-containment policies at HUD. As their resident populations predictable age, they may be ill-equipped to deal with the changes. Unlike the public housing program, Section 202 has no modernization program as a means to making needed changes to existing facilities.

The Farmers Home Administration's Section 515 program is also a major provider of housing to older people. Roughly half of the

Section 515 projects, providing more than 150,000 units, are specifically for the elderly. While a few of these projects are designed to provide congregate services, most lack facilities to provide services. Since they are located in rural areas, Section 515 projects often have greater problems accessing meager existing services.

Other programs, such as the Section 8, Section 236, and Section 221(d)(3 programs, have also produced a significant number of elderly housing projects. Resources must be made available to deal with management problems associated with aging facilities as well as aging residents.

The network of elderly projects under these programs provides an ample base of research and program experience upon which to build future policy. Among the nearly universal findings, which is unique to elderly housing facilities, is a very low turnover rate which results in a progressively older average age over time as residents "age in place." A facility, which typically has an average resident age in the mid-sixties when it opens its doors, 20 years later will have an average age as high as 80 years or more. The process becomes self-perpetuating because projects with higher average ages tend to attract older applicants.

In the aggregate, advancing age is associated with increasing frailty and need for services. According to a Congressionally mandated 1989 study by the Urban Institute, as many as 415,000 older residents of federally assisted housing have significant impairments with roughly 105,000 in need of assistance with at least one activity of daily living. This number is expected to grow rapidly over the next 2 decades.

The passage of time, therefore, presents managers with problems that are difficult to solve despite their predictability. As the facilities age and require modernization to remain usable, the needs of residents change as they age in place. Project Retrofit is designed to address all aspects of this problem, including the capital costs, the management capacity, and the services needs associated with serving an aging resident population.

Purpose: Project Retrofit would be designed to enable frail elderly persons residing in federally assisted housing to live with dignity and independence and avoid unnecessary institutionalization. The program would attempt to meet the special needs of residents by (a) retrofitting individual dwelling units and renovating public and common areas, (b) developing adequate congregate space on or adjacent to the premises of the housing to accommodate the provision of supportive services to the residents, (c) providing supportive services temporarily unavailable from other sources, and (d) improving management capacity.

Project Retrofit would operate on an incentive basis, making new forms of HUD assistance available only to public housing and owners of federally assisted housing that have already received assurances of supportive service funding. This leveraging of housing and service monies presents an innovative way to assist the "aging in place" population at less cost than formal institutionalization

The Committee expects that funding for supportive services would come from a variety of sources. By tying housing monies to the provision of service funds, the bill will encourage states, localities, and private organizations to make commitments to fund supportive service programs in federally-assisted housing. States and localities would be encouraged to collocate supportive services that are funded under existing federal programs such as the Social Services Block Grant (SSBG) or the Older Americans Act to expand supportive housing. States and localities will, of course, be encouraged to target their own programs for such use.

Eligible Housing: Developments financed under public housing, Section 202, Section 515, Section 8, Section 236 and Section 221(d)(3) (both Market Rate and BMIR) would be eligible to receive assistance under Project Retrofit. Grants would be awarded in a national competition. For-profit owners of assisted housing would need to agree to maintain the low-income character of the housing for the term of the original mortgage.

*Eligible Activities.*—The Committee bill would authorize the Secretary to provide funding for three types of activities.

Renovation: The bill would authorize HUD to provide grants for various types of renovation in eligible housing for the elderly.

First, funds could be used to renovate individual apartments to meet the special physical needs of current or future frail elderly and other eligible residents. Such renovation activities could include the widening of doorways, installation of grab bars in bathrooms, redesign of usable kitchens and bathrooms.

Second, funds could be used to ensure that public and common areas are readily accessible to and usable by frail elderly and other eligible residents.

Finally, funds could be used to accommodate the provision of supportive services for frail and other eligible residents. This type of on-site renovation might include the conversion or combination of vacant dwelling units in an existing development to create the congregate space necessary for the provision of supportive services. Such activity might also include the renovation of existing congregate space. The bill would amend Section 9 of the Housing Act of 1937 to prevent a PHA from losing Federal operating subsidies by combining adjoining apartments. Current regulations discourage such activities by decreasing operating subsidies upon the loss of existing apartment units.

The bill would also authorize HUD to provide funding for the construction or renovation of conveniently located facilities to accommodate the provision of supportive services.

Transitional Supportive Services: The Committee believes that the leveraging of housing and supportive service funds presents an innovative and cost-effective way to help frail elderly persons residing in federally assisted housing to live with dignity and independence. Yet the absence of programs that target services directly to federally assisted housing as well as constraints in existing supportive service programs mean that monies may not be available in the initial years of Project Retrofit for all services.

The Committee bill would, therefore, authorize the Secretary to provide transitional supportive service funding where other sources of funding are temporarily unavailable. Applicants for such service funding would need to demonstrate that (1) the qualifying services are necessary to help eligible residents live independently and avoid premature institutionalization, (2) the owner has made diligent efforts to use or obtain other available resources to fund the designated services, and (3) there are reasonable assurances that long-term funding for the qualifying services will be available from other sources. The bill would require that funding for transitional services be phased out over a period not to exceed 3 years.

The bill would also authorize the Secretary to fund the renewal of contracts under the Congregate Housing Services Program (CHSP). Currently funded sites would be given up to 3 years to find alternative funding for services under the Committee bill.

CHSP has impressively demonstrated that housing with supportive services can prevent the unnecessary institutionalization of frail older persons. According to data from a HUD funded study by the Hebrew Rehabilitation Center, the expected institutionalization rate among residents of facilities for older people was cut nearly in half by the introduction of CHSP services.

Equally impressive were the deinstitutionalizing effects of having CHSP services. At housing sites for older residents, administrators were 6 times more likely to admit residents from nursing homes when they had CHSP services to offer. At sites for the developmentally disabled, the deinstitutionalization rates were often nearly 100 percent. Several states and other nations, such as the United Kingdom and Sweden, have witnessed similar success stories with service-enriched housing.

Administrative Capacity: The bill would ensure that owners have the capacity to perform a number of functions vital to the success of Project Retrofit. Specifically, the employment of service coordinators would be made an eligible activity under the program. These management personnel would have a number of responsibilities including (1) assessing the service needs of frail elderly residents on an ongoing basis, (2) tailoring the provision of services to the needs of such residents, and (3) mobilizing public and private resources to ensure that the necessary services can be funded over an adequate time period. The bill would require the Secretary to establish minimum qualifications and standards for service coordinators. The Committee bill would authorize the Secretary to fund the employment of service coordinators by using Project Retrofit appropriations and by permitting owners to use existing sources of project funds including but not limited to excess project reserves.

*Applications.*—The Committee bill would require applications for HUD assistance under Project Retrofit to provide at least the following information.

First, the bill would require a description of the services that can reasonably be expected to be made available to eligible families over a 5-year period. The Secretary may require a showing over a longer period if substantial rehabilitation is needed to accommodate the provision of supportive services.

Second, the bill would require a firm commitment that services would be provided for at least 1 year following the completion of renovation and rehabilitation activities.

Third, the bill would require a description of the entities or programs that can reasonably be expected to fund or provide services for the 5-year (or longer) period.

Fourth, the bill would require the appropriate State or local agency to certify that the services identified by the applicant are well designed to enable frail elderly individuals to live independently and avoid unnecessary institutionalization. It is expected that the types of supportive services provided would vary from project to project depending upon the individual service needs of eligible residents and the available resources of different jurisdictions.

The bill would also require the State or local agency to certify that there is a reasonable likelihood that services would be funded for the 5 year (or longer) period.

Fifth, the bill would require evidence that the owner has established a professional assessment committee.

Sixth, the bill would require a description of the assistance that the owner seeks under Project Retrofit.

Seventh, the bill would require a description of any fees that would be established for the provision of services.

*Selection Criteria.*—The Committee bill would require the Secretary to establish selection criteria to govern the funding of eligible activities under Project Retrofit. The bill would require that such criteria take into account a number of factors concerning (1) the administrative capacity to provide the services identified in the application; (2) the need for such services; (3) the extent to which the proposed rehabilitation activities are appropriate to accommodate such services; (4) the extent to which the owner has shown that such services would be provided for the statutorily-required period; and (5) the past performance of the owner. The Committee believes that HUD should not "look behind" the package of supportive services contained in a given application to determine whether the package sufficiently addresses the needs of families residing in a particular development. That assessment would have been already made by state and local agencies as expressed in the required certification.

Provision of Supportive Services: The Committee bill would contain a number of provisions designed to ensure that supportive services are provided in a fair, equitable and cost-effective fashion.

The bill would require each owner receiving Project Retrofit funds to establish a Professional Assessment Committee (PAC). These committees have proven to be critical to the success of the Congregate Housing Service Program. The PACs would identify those residents who meet the definition of "eligible resident" and designate the supportive services appropriate for such residents. The Committee believes that the PACs are critical to the achievement of 2 important program objectives. By limiting eligible residents to those who truly need supportive services to maintain independence, the PACs would help ensure that Project Retrofit operates in a cost-effective manner. By ensuring that the provision of services is tailored to the needs of individual residents the PACs would ensure that residents are served well.

The bill would permit non-eligible residents to participate in a supportive service program assisted under Project Retrofit if the owner determines that such participation would not adversely affect the cost-effectiveness or operation of the program. The experience of meals programs and other services attest to the economies of scale that can be achieved in the provision of services to large numbers of persons.

The bill would permit an owner to charge fees for meals and other qualifying supportive services. Fees for eligible and non-eligible residents shall be reasonable and may not exceed the cost of providing the services. In addition, fees for eligible residents must be calculated on a sliding scale so that all eligible residents can afford to receive services.

The bill would authorize the Secretary to permit the provision of services to non-residents if the participation of such persons will not adversely affect the cost-effectiveness of the program or add significantly to the need for Federal assistance.

*Local Coordination.*—The Committee encourages strong coordination and innovation at the local level. Not every elderly facility in a community need be retrofitted to provide congregate services. One project might act as a services hub for other sites, an approach that is already being implemented with success in some communities. Service coordinators could serve more than one facility, especially in smaller projects.

In designating a project to be retrofitted, officials developing the local "housing strategy" are encouraged to address management and marketing problems. The Committee is aware of complaints in some localities of newer projects creating vacancies in older projects. Troubled projects might be targeted for retrofitting and services dollars in order to create a different market of the units aimed at a frailer population, a strategy that proved successful in a Farmers Home Section 515 project in Maine that currently provides services under the State's congregate services program.

Retrofitting dollars could also play a role in local preservation strategy. In exchange for an extended commitment to remain low-income housing, funds might be targeted to elderly facilities at risk of loss because of default or contract expiration.

Since the goal of Project Retrofit is to leverage service funding from a variety of sources, local coordination of service is also crucial to the success of the program. Accordingly, the Secretary should encourage local coordination, including collocation of a variety of community-based services in public and assisted housing projects. While HUD should not finance social services programs for nonresidents of public and assisted housing, HUD and Farmers Home projects would offer excellent sites for meals programs, adult day care and other services for the older community.

Qualifying Supportive Services: The Committee bill would define "qualifying supportive services" as meaning the services that the Secretary determines are essential to enable frail elderly individuals to live independently and avoid unnecessary institutionalization. The bill would provide a non-exclusive list of exemplary services.

Resident Eligibility: The bill would require the Secretary to establish standards and guidelines governing the eligibility of residents for supportive services after consultation with the Secretary of Health and Human Services and with appropriate organizations representing the elderly. The target population mirrors that of the Congregate Housing Services Program: elderly residents of public and assisted housing who are unable to perform at least three activities of daily living established by the Secretary.

### *HOPE for Elderly Independence*

*In General.*—The Committee bill would contain the Administration's HOPE for Elderly Independence program. This new demonstration program would test the effectiveness of combining housing vouchers and supportive services to enable frail elderly persons to live independently. The program would be designed to allow the many frail older renters who would prefer to stay in their own homes and communities to do so.

This demonstration would provide housing assistance and supportive service for a 5-year period. It would require frail elderly families to receive both housing assistance and services, rather than simply making supportive services available on an optional basis to those individuals currently receiving housing assistance. Services which can be funded include assistance with bathing, dressing toileting, and mobility, case management counseling, supervision, and other services essential to achieving and maintaining independent living. The demonstration would require that the program be targeted to those frail elderly individuals who need this assistance in order to live independently and that the services provided be tailored to each individual's needs. Awarding of funds for supportive services and housing vouchers under the demonstration would be made through a national competition.

Housing Voucher Assistance: The Committee bill would athorize HUD to make housing voucher assistance available to public housing agencies (PHAs) participating in this demonstration. PHAs would have the authority to require frail elderly families receiving these vouchers to live within a particular geographic areas as a condition of participation. To facilitate economies of scale, PHA's would have the authority to restrict the elderly families housing choices to specific neighborhoods. A frail elderly family who refuses to meet this condition would not have to be accepted into PHA's program. However, PHAs would not be permitted to require a frail elderly individual to live in a specific building in order to receive the assistance. In order to provde continuity of housing assistance after the demonstration is completed, this subsection would also require PHAs to offer elderly individuals continued housing assistance, through the agency's regular voucher program.

*Supportive Services Requirements; Matching Funding.*—The program would require PHAs to estimate the cost of the services and the Secretary would approve such costs. These costs would be paid by: HUD (40%), the PHA (at least 50%) with funds from federal, state, local or private programs, and each frail elderly individual would pay 10%). Federal funds to the PHA could come from the Department of Health and Human Services Social Services block Grant program (Title XX) and the Administration on Aging's Older Americans Act Program (Title III). Salaries paid to staff to provide supportive services also would count towards the PHAs match. Each frail elderly family's co-payment would be based on actual services received by that individual rather than on the aggregate services received by all the individuals in the PHA's demonstration in order to minimize the use of unnecessary services.

PHAs would be required to assure that the services provided to each frail elderly person are tailored so as to be appropriate to their individual needs. If an individual requires a concentrated and costly amount of services in the first year, that individual would not be denied services in subsequent years simply because that individual's needs were underestimated.

The demonstration would allow the PHA to take into account, and be able to reflect through funding, the changing needs of the frail elderly individuals served. While a PHA would be prohibited from using more than one-fifth of the Federal assistance provided for supportive service under the demonstration in any one year, it would be authorized to use any amount from any prior year in which the PHA did not use one-fifth of the available Federal assistance. In addition, there would be no annual allocation requirements placed on the services funding received by PHAs from other sources. PHAs would be free to use this funding to support higher levels of care that may be required but were unanticipated at the outset of the demonstration.

*Applications.*—The Committee would establish the application requirements for the demonstration. Details of the requirements of the application are contained in the Section by Section of the bill.

Selection: The Committee bill would contain selection criteria for participating PHAs. Details of the selection criteria are contained in the Section-by-Section summary of the bill.

Report: Within two years of the enactment of the National Affordable Housing Act, the Secretary would be required to submit to the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Housing and Finance an interim report evaluating the effectiveness of the demonstration program.

The Committee believes such a report is necessary to evaluate the cost and benefits of providing services on a scattered-site rather than a project basis. Accordingly, the Committee intends that the Secretary shall provide for independent research comparing the two approaches to services to the elderly authorized under this Title. Such a study should acquire data both before and after the intervention of services and follow the effectiveness of congregate versus scattered-site services over a period of not less than 2 years. Included in the study should be at least (1) the relative costs of the two services approaches, (2) the quality of the services and their effectiveness in promoting independence, (3) the satisfaction of participants in the program, and (4) the relative success in meeting other objectives, such as preservation or marketing troubled projects.

### *Subtitle B—Supportive Housing for Persons With Disabilities*

*In General.*—The bill would complete the separation of the Section 202 housing program for the elderly and persons with disabilities, a process that was initiated in the Housing and Community Development Act of 1987.

The 1987 Act recognized that the development of housing for nonelderly persons with disabilities could be made more efficient and less costly by the adoption of standards and procedures applicable only to such housing. The 1987 Act, while making some changes to this end, retained the program for persons with disabilities within the larger Section 202 program. The 1987 Act specified that not less than 15 percent of total appropriations for the Section

202 program be used for the development of housing for persons with disabilities.

The Committee believes that separation of the programs for elderly and persons with disabilities would further the goal of developing a program that meets the housing and related needs of nonelderly persons with disabilities. A separate program would spur the development of a bureaucracy knowledgeable about and sensitive to the special needs of tenants with disabilities, needs which can differ from those of many elderly residents. The bill would facilitate the emergence of a streamlined program that responds efficiently and effectively to the special needs of persons with disabilities.

A separate program would also create and institutional voice for housing concerns that are particular to this constituency. Such a voice would ensure that the needs and requirements of tenants with disabilities would be represented within internal HUD deliberations and in communications such as budget requests that are made to Congress.

Nomenclature: The existing Section 202 program refers to "handicapped housing" or "handicapped persons." The Committee heard unanimous testimony that such language perpetuates negative stereotypes and inhibits community accessibility and acceptance. Eloquent testimony was provided by Mr. Bill Mitchell, who represented the National Council on Independent Living before the Housing Subcommittee on June 2, 1989:

> A disability is a condition, either emotional or physical. A handicap, on the other hand, is the cummulative result of the obstacles which the interaction of a disability with the environment interposes between individuals and their maximum functional level. Therefore, disabilities only become handicaps in relation to a particular environmental or set of circumstances. A person who uses a wheelchair is not handicapped in a situation that does not require climbing stairs. A person who is blind is not handicapped in a job that does not require vision. * * * A disability may necessitate that a person do something a little bit differently from a person who does not have the disability, but with appropriate accommodation they may have equal participation and equal results.
>
> Similarly, in our use of language, both written and verbal, we can choose to emphasize peoples' similarities or their differences. The term "a disabled person" is a shortcut to the more involved and sometimes more awkward, but psychologically more appropriate expression, "a person with a disability". The latter is by far preferred. It connotes that a person with a disability is first and foremost a person, with many unspecified characteristics in addition to his/her particular disability. "Disabled person" represents differentness and separateness, and reduces a person's identity to his/her disability. This short-cut distorts and undermines the perception of who people with disabilities are and how they want to be seen.

The Committee bill would, therefore, adopt "people first" language and replace the existing terminology with "persons with disabilities".

Integrated Living: The existing section 202(h) program encourages the development of small and scattered site group homes and independent living facilities for persons with disabilities. This traditional approach is appropriate for some persons with disabilities; for others, however, the opportunity to be more fully integrated into the community is essential. The degree of integration necessary depends entirely on the individual needs of person being provided housing.

The preference of many persons with mental retardation and other developmental disabilities, mental illness, and/or physical disabilities and their families is for the maximum degree of community integration based soley on individual needs. The National Institute of Mental Health, for example, has issued a set of "guiding principles for meeting the housing needs of people with psychiatric disabilities." These principles appropriately describe the variations in residential needs of such people as follows:

> As is true of all people, individuals with long-term disabling mental illness need a living environmental that is a "home" and that is stable over time. The majority of individuals with long-term mental illness can meet their housing needs on the same living environments available to the general public, *if* appropriate supportive services are readily available and are provided in a flexible, individualized manner.
>
> Although most individuals with long-term, disabling mental illness can live successfully in normal community housing, a small proportion of the population, such as those who are highly disabled, may need specialized housing in more structured, short-term or long-term facilities.

These guiding principles are equally applicable to the total population of persons with disabilities who are eligible for the supportive housing program.

The Committee bill would, therefore, require the Secretary to provide a variety of housing options, ranging from group homes and independent living facilities to dwelling units in multifamily housing, condominiun housing and cooperative housing. This change from existing law mirrors the range of housing options that have been authorized under the Permanent Housing for Persons with Disabilities program under the McKinney Homeless Assistance Act.

The Committee recognizes that the integration of persons with mental illness into "typical community housing" has been a controversial issue. At the behest of the Housing Subcommittee, the General Accounting Office is now studying the nature and extent of the problems caused by the recent influx of persons with chronic mental illness into public housing for the elderly.

The Committee emphasizes, however, that the program established by this bill would require a supportive service plan for every development, whether it involves the acquistion of an apartment in a multifamily development or the development of a group home.

The provision of supportive service that are tailored to the individual needs of persons with disabilities should facilitate a "mix of populations" in privately-owned apartment building, condominium and town house developments.

Financing Mechanism: The Committee bill would finance the production of supportive housing for persons with disabilities with two types of assistance: capital advances and project rental assistance.

Under existing law (as amended by the Housing and Community Development Act of 1987), 40-year direct loans are made to nonprofit sponsors at interest rates that reflect the U.S. Government's average cost of borrowing. Once occupied, projects receive project based rental subsidies, about 75 percent of which goes to pay principal and interest on the loan. Congress must, therefore, appropriate budget authority both to make the loan and then to repay it. Tenants generally contribute 30 percent of their income for rent.

The Committee believes that the current financing mechanism needlessly drives up the budget authority required for the program through administrative and interest costs associated with paying back the loan.

The Committee bill would, therefore, authorize the Secretary to provide non-interest bearing capital advances to nonprofit sponsors for alomost 100 percent of a project's development costs. Repayment of a capital advance would not be required so long as the housing remains available for very-low income persons with disabilities. The bill would require that all units in a development assisted under this program be made available for occupancy by very low-income persons with disabilities for not less than 40 years.

The Committee bill would also require the Secretary to enter into contracts for project rental assistance to fund the deficit between project income and the costs attributable to units occupied (or held for occupancy) by very low-income persons with disabilities. The rental subsidies would no longer need to service debt, thereby greatly reducing the budget authority associated with the program. The tenant rent contribution would mirror existing law.

The Committtee bill would set the initial term of contracts for project rental assistance at 20 years. The bill would require the Secretary, to the extent approved in appropriation Acts, to extend any expiring contract for a least a five year term. To facilitate the extension of expiring contracts, the bill would authorize the Secretary to make commitments to extend such contracts during the year prior to their expiration date.

*Limitations on Development Cost.*—The Committee bill would allow project financing to be based on the actual, reasonable costs of building and operating supportive housing for persons with disabilities. The bill would expand upon the regulatory framework that has been established in the aftermath of the Housing and Community Development Act of 1987.

Section 162 of the Housing and Community Development Act of 1987 discontinued the use of Section 8 rental assistance (and hence the fair market rent system) in conjunction with housing for persons with disabilities. In its place, a new project-based rental subsidy was authorized.

The Department published a final rule implementing the provisions of Section 162 on June 20, 1989. The Department determined that the existing method for calculating the development cost of a project was appropriate for independent living facilities. Under that method, a maximum amount is allowed for each dwelling unit, based on unit size by number of bedrooms and whether the building has an elevator. The regulations use Section 221(d)(3) per unit mortgage limits to set the limits for independent living facilities.

The regulations take a different tack for groups homes. Since group homes are basically single family residential structures designed or adapted for occupancy by persons with disabilities, the Department concluded that the multifamily project cost limits would not be appropriate. Instead, the regulations require the Department to establish separate group home cost limits to reflect those reasonable and necessary costs of developing such housing. The Department published the first notice of such cost limits in the Federal Register on January 18, 1990.

Current and potential sponsors of housing claim that problems remain under the current rule which inhibit their ability to develop critically needed housing. Specifically, they claim that costs associated with local building regulations, fire and safety standards, and high land costs are not accurately refelcted by the present HUD guidelines. Sponsors indicate that the present guidelines do not accurately reflect market rates even in areas which are generally not associated with extremely high land costs.

The bill would require the Secretary to establish development cost limitations that are based on current prevailing costs of construction, rehabilitation and acquisition. The bill would require the Secretary to establish such cost limitations by market area for various types and sizes of supportive housing for persons with disabilities. The Secretary would be required to publish a notice of the cost limitations in the Federal Register and to update the limitations on an annual basis to reflect changes in construction and acquisition costs.

The bill would require that the development cost limitations reflect a number of cost factors relating to the development of supportive housing for persons with disabilities. Specifically, the bill would require that the cost limitations reflect (1) the cost of construction, reconstruction, or rehabilitation of supportive housing for persons with disabilities that meets applicable State and local housing and building codes and conforms with the design characteristics of the neighborhood in which it is to be located; (2) the cost of movabies necessary to the basic operation of the housing; (3) the cost of special design features necessary to make the housing asccessible to persons with disabilities; (4) the cost of special design features necessary to make individual dwelling units meet the physical needs of persons with disabilities; (5) the cost of congregate space necessary to accommodate the provision of supportive services to persons with disabilities; (6) for newly constructed housing, the cost of meeting HUD's energy efficiency standards; and (7) the cost of land, including necessary site improvement.

The Committee emphasizes the importance of developing supportive housing for persons with disabilities that conforms with design characteristics of the surrounding neighborhood. The Department has often prohibited the use of certain construction materials and of features such as roof overhangs to lower the upfront costs of development. Yet such prohibitions often make it more difficult to obtain community acceptance of supportive housing and, in certain cases, actually raise the long-term costs of the housing. For example, the use of a roof overhang protects siding on a house from premature damage by the elements. The use of brick, which is a very maintenance free material, can keep down long-term maintenance costs. Additionally, the use of roof overhangs and brick may improve the appearance of a house and help it blend in more appropriately with a neighborhood. Finally, the requirements of certain features such as extra wide sidewalks often serve to make a group home stand out as "different" from other homes in the neighborhood. This negatively affects the perception of other community residents of those persons living in the group home.

Cost Containment Issue: The Committee bill would use an incentive system to contain costs on the development of supportive housing for persons with disabilities.

Under the guise of cost containment, the previous Administration established a series of restrictions that adversely affected the development and management of Section 202 projects. Congress made a specific finding in Section 162(a)(1)(E) of the Housing and Community Development Act of 1987 that "the cost containment policies currently being implemented in the development of small group homes (i) do not adequately reflect the necessity for building designs to meet the needs of the designated residents; and (ii) do not recognize necessary State and local standards for the operation of such homes". The Department was directed to adopt distinct standards and procedures to reflect the differences between housing for persons with disabilities and other assisted housing.

Current and potential sponsors of housing for person with disabilities report that certain problems remain in the existing section 202(h) program in relation to cost containment requirements. These include repeated demands by HUD for revision in architectural designs so that they meet the cost containment requirements. These demands escalate architectural costs that often, in reality, are greater than the savings that are supposed to be realized through re-design. Another area of concern is that cost containment requirements related to square footage remain unreasonable for housing that may have residents who use wheelchairs. Often, once furniture is placed in rooms that are designed according to these cost containment requirements, persons who use wheelchairs are unable to maneuver easily through their own home.

The bill would provide owners with an incentive to contain the cost of development. Owners which incur development costs that are less than the amount of financing would be entitled to retain 50 percent of the savings in a special project account. That percentage would be increased to 75 percent for owners which add energy efficiency features which meet certain criteria. The bill would also direct the Secretary to give owners the flexibility to design projects appropriate to their location and proposed tenant population within broadly defined parameters.

The Committee believes that the market approach to cost containment represented by these changes will prove to be more effective than having HUD officials micro-managing and second guessing the decisions of owners, architects and contractors. The Committee also believes that these changes will significantly reduce the intolerable processing time associated with the development of Section 202 projects.

*Applications.*—The Committee bill would establish minimum contents for applications for assistance under this program.

The existing statute is silent on the form and contents of applications for assistance. The regulations, in contrast, do provide guidance. The bill is intended to codify the most important regulatory provisions as well as incorporate new requirements more closely related to the objectives of supportive housing.

The Committee bill would require that applications provide at least six pieces of information. First, the bill would require a description of the proposed housing. Second, the bill would require a description of the assistance the applicant is seeking.

Third, the bill would require a supportive service plan that contains (1) a description of the needs of persons with disabilities the housing is intended to serve; (2) assurances that residents would receive services based on their individual needs; (3) evidence of the applicant's (or a designated service provider's) experience in providing such services; (4) a description of the manner in which such services will be provided; and (5) a description of the State and local funds that can reasonably be expected to assist in the provision of such services. The Committee expects that the types of supportive services provided would vary from project to project depending upon the individual service needs of eligible residents and the available resources of different jurisdictions. The focus on addressing the individual service needs of residents was the major suggestion to arise from hearings held by the Housing Subcommittee.

Fourth, the bill would require the appropriate State or local agency to certify that the services identified by the applicant are well designed to meet the special needs of the persons with disabilities the housing is intended to serve.

Fifth, the bill would require resonable assurances that the applicant will own or have control of an acceptable site for the proposed housing not later than 6 months after notification of an award for assistance.

Sixth, the bill would require the public official responsible for submitting a housing strategy for the jurisdiction to certify that the proposed project is consistent with the approved housing strategy. A local official would need to provide such a certification where the locality is a participating jurisdiction under the HOP program. State officials would provide the certifications in all other cases.

*Selection Criteria.*—The Committee bill would require the Secretary to establish selection criteria to govern the funding of supportive housing for persons with disabilities.

The existing statute authorizes the Secretary to consider the extent to which assistance will assist in (1) stabilizing, conserving and rehabilitating neighborhoods; (2) providing housing for persons with displacement in neighborhoods in which they are experiencing significant displacement due to public or private investment; or

(3) the substantial rehabilitation of structures having architectural, historical or cultural significance.

The Committee believes that the existing selection criteria no longer capture the principal objectives underlying supportive housing for persons with disabilities. The Committee bill would, therefore, establish a new set of criteria that better reflect program purposes: expanding the supply of supportive housing that is designed to accommodate the individual needs of persons with disabilities and provides a range of supportive services that are tailored to the needs of such persons.

The bill would require that selection criteria include a number of factors relating to (1) administrative capacity, (2) housing need, (3) housing design and the special needs of persons with disabilities, (4) evidence of long-term service provision, (5) the interplay of housing design and the delivery of services, and (6) site control. The Committee believes that HUD should not "look behind" the package of supportive services contained in a given application to determine whether the package sufficiently addresses the needs of persons with disabilities expected to reside in a particular supportive housing development. That assessment would have already been made by state and local agencies as expressed in the required certification.

*Distribution of Assistance.*—The Committee bill would exempt housing for persons with disabilities from existing fair share allocation rules.

Section 213(d) of the Housing and Community Development Act of 1974 sets forth the requirements for the allocation of funds under various HUD programs, including the Section 202 program. In general, funds are allocated to each field office on the basis of a "fair share" distribution. From 20 to 25 percent of the funds are allocated for use in nonmetropolitan areas to meet rural housing needs.

The Committee believes that the fair share allocation rules no longer make sense for the Section 202 program. Severe budget cuts during the 1980's have led to small dollar allocations being made to HUD field offices, constraining the ability of nonprofits to develop feasible projects.

The Committee would, therefore, exempt supportive housing for persons with disabilities, from the Section 213(d) allocation requirements. The Committee intends that the Department should select applications based on performance under the selection criteria, regardless of whether the project is located in a metropolitan or nonmetropolitan area.

*Exclusive Settings.*—The Committee has learned that the Department refuses to allow nonprofit sponsors to develop supportive housing exclusively for persons with AIDS. The Committee bill would clarify that an owner could, with the approval of the Secretary, restrict occupancy within supportive housing to persons with disabilities who have similar disabilities and require a similar set of supportive services. The Committee fully expects that the statutory language will enable nonprofit organizations to develop supportive housing that is intended to and does restrict occupancy to persons with AIDS.

## *Subtitle C—Supportive Housing for the Homeless*

### *Consolidated McKinney Homeless Assistance Program*

*In General.*—The Committee bill would consolidate four of the five existing McKinney housing programs for the homeless under one program. The bill would largely streamline the distribution of funds under the new consolidated program to States and localities in accordance with a refined allocation formula.

Five separate homeless assistance programs were authorized under Title IV of the Stewart B. McKinney Homeless Assistance Act of 1987.

The Emergency Shelter Grants Program assists the renovation and rehabilitation of buildings for use as emergency shelters for the homeless.

The Supportive Housing/Transitional Housing Program assists the acquisition and/or rehabilitation of housing that facilitates the transition of homeless persons to independent living.

Supportive Housing/Permanent Housing for Handicapped Homeless Persons assists the development of community-based, long-term housing for homeless persons with disabilities.

The Section 8 SRO Program provides rental assistance to spur the renovation of single room occupancy dwellings (SROs), which typically have one-room apartments, shared bathrooms and no kitchen facilities.

Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) supplements assistance (particularly services) provided under the other McKinney homeless assistance programs.

Among the McKinney programs, only the Emergency Shelter Grants program is currently distributed directly to States and large metropolitan cities and counties by formula allocation. Assistance under the other four programs is distributed by national competition to nonprofit organizations as well as government entities.

The Committee believes that the largely categorical nature of the McKinney programs has weakened in several ways the ability of government at the Federal, State and local level to address the problem of homelessness in an effective and coordinated manner.

First, the McKinney categorical programs were each designed to resolve a special homeless problem. Thus, the programs were designed in a rigid fashion. Different rules governing applications, selection criteria, and other program elements were devised. Applicants, many of them small nonprofit service providers, complained of the needless complexity of the myriad programs from their inception.

Second, the Committee believes that the Department's administration of the McKinney programs compounded the problem. Responsibility for the different programs were split between different parts of the agency: ESG under the Assistant Secretary for Community Planning and Development, Supportive Housing under the Assistant Secretary for Housing. Regulations for the Permanent Housing for Handicapped Homeless Persons were overly complex, modeled upon well established, well-funded programs like Section 202. The start-up periods for what were designed as emergency programs were intolerably long. The current Administration has attempted to reorganize responsibility for the programs and streamline the administrative process; yet that activity, while necessary, has delayed once again the distribution of funds for these emergency activities.

Finally, the Committee strongly believes that States and localities are best situated to assess the nature and extent of their homeless problems and devise long-term comprehensive strategies for addressing such problems. Yet the current programs create a disincentive for such activity. Since State and local governments are not assured of receiving funds directly and since other non-governmental entities can receive federal assistance directly, it is not surprising that few actors have viewed the Comprehensive Homeless Assistance Plans (CHAPs) as effective planning tools.

The Committee strongly believes that a consolidated McKinney program will improve upon existing homeless housing programs by: (1) directing the Secretary to establish an allocation formula that is based on actual homeless population so that federal homeless assistance can be targeted to states and localities with the largest homeless problem; (2) permitting states and localities to receive federal homeless assistance in accordance with this predictable formula so that they can effectively plan long-term responses to homelessness through their Comprehensive Housing Affordability Strategies; and (3) giving states and localities the flexibility to determine how federal homeless assistance will be allocated among five defined approved activities: homeless prevention, emergency shelters, transitional housing, permanent housing for the homeless persons with disabilities and assistance for transition to permanent housing.

The bill would also require the Department to develop specific strategies to (1) eliminate the use of welfare hotels and other unfit transient facilities; and (2) expand the supply of supportive housing for persons with AIDS.

Finally, the bill would continue the Section 8 SRO program as a separate program. Consolidation of this program could disrupt the highly effective delivery and accounting system that now exists under the Section 8 program.

*General Allocation of Resources.*—Funding for the consolidated program would be authorized at $220 million for fiscal year 1991, $229 million for fiscal year 1992 and $238 million for fiscal year 1993. This figure essentially aggregates what would have been the authorized funding for the separate programs that were consolidated.

The bill would distribute 80 percent of the funding for the consolidated program directly by formula to States and localities that have approved housing strategies, known as "grantees". The formula program would distribute 70 percent of funding to localities and the remaining 30 percent to States. Grantees would be given the flexibility to determine how best to allocate resources among approved activities. These activities would consist of (1) helping very low-income families avoid becoming homeless (through payments for rent and utility arrearage); (2) meeting the emergency shelter needs of homeless persons; (3) providing transitional housing to facilitate the movement of homeless persons and families to independent living; (4) providing specialized permanent housing for homeless persons with disabilities who need a supportive living environment; (5) helping very-low income families who are residing in emergency shelter or transitional housing make the transition to permanent housing (through provision of security deposits and one month's rent); and (6) other activities developed by HUD in cooperation with grantees.

The remaining 20 percent of the funding for the consolidated program would be distributed by national competition among grantees and private nonprofit organizations. The objective of this discretionary allocation would be to meet urgent needs of homeless persons that are not being met by available public and private resources in areas experiencing an unusually high incidence of homelessness.

*Formula Allocation.*—Funds set aside for formula distribution under the new consolidated program would be distributed in a manner that maximizes targeting and accountability at the national level and flexibility and predictability at the local level. The Secretary would establish in regulation a formula that takes into account each jurisdiction's share of the Nation's need for housing assistance for the homeless. The formula would be based upon measures of the incidence of homelessness as well as proxies of such incidence, the relation between the supply of affordable housing for very low income families and the number of such families in the jurisdiction, poverty, and housing overcrowding.

The Committee recognizes that there is no adequate "objective" measures of the incidence of homelessness. The Census Bureau has stated that the homeless count conducted in March 1990 "will not provide an official definition of homelessness or a total count of homeless persons". The National Coalition for the Homeless reports that the Census Bureau's efforts were at best uneven in the attempt to count targeted homeless persons. In Minneapolis/St. Paul, for example, local officials and shelter providers, realizing the importance of the Census, worked with the Census Bureau to make the count as successful as possible. Yet shelter enumerators were not able to visit all planned sites. Thus, enumerators missed 25 persons to 30 percent of homeless persons residing in shelters on "S" night. Similar experiences were reported throughout the country. The Committee expects the Secretary to consult with a variety of experts to ensure that the devised formula meets the statutory objectives to the greatest extent practicable.

Each state would receive a minimum allocation of $250,000. If no local governments within a state receive an allocation, the Secretary could increase the State's allocation by $125,000 after determining that such increase is necessary to provide appropriate levels of housing assistance to homeless people within the State. Priority for such increased allocation would go to the housing needs of cities within the state that are the largest city within a metropolitan area.

Formula amounts would be allocated among a group of local governments that only includes local governments that are allocated $200,000 or more under the formula. That is, no locality would appear on the allocation list if the formula would not allocate to it at least $200,000.

The threshold for direct participation in the formula program, however, is $250,000. Thus, the formula allocation method would result in having a number of local jurisdictions identified as almost eligible to become direct grantees, those jurisdictions receiving an allocation between $200,000 and $250,000. The Committee intends to enable these smaller local jurisdictions to participate, but in a way that does not spread homeless assistance too thinly to be employed effectively. Section 404 of the Committee bill provides such jurisdictions with two ways in which they can achieve the $250,000 threshold for participation. First, if a jurisdiction is the city with the largest population in a metropolitan area, has a local housing authority, and has demonstrated a capacity to carry out provisions of this subtitle, the jurisdiction would be eligible to participate if the shortfall below $250,000 is made up by (1) having the state agree to transfer a portion of the state's allocation to the jurisdiction or (2) having the state or local jurisdiction make up the shortfall with contributions of their own funds. Any such contribution would have to be in addition to the non-federal match required under section 406. Second, geographically contiguous units of general local government that receive an allocation could become eligible to participate by forming a consortium and "pooling" their allocation amounts. They would have to satisfy the Secretary that the consortium has sufficient authority and administrative capacity to act on behalf of the member jurisdictions in carrying out the purposes of this Act. Such a consortium would be deemed to be a unit of general local government for other purposes of this subtitle.

The formula allocation method for the consolidated McKinney programs, therefore, mirrors the basic method established for the HOP program. The Committee believes that funds under the McKinney program must be allocated in amounts that are large enough to sustain credible strategies for addressing the problem of homelessness. Other approaches, such as extending eligiblity to all jurisdictions with populations above some chosen size, would inevitably spread a large portion of available funds too thinly to carry out significant housing objectives or to justify the administrative support required for effective housing activities. The distribution of housing assistance should be tailored to the special requirements of housing.

Once a State or locality becomes a grantee, it would remain eligible to receive grants for subsequent fiscal years unless its grantee status was revoked. The Secretary would be authorized to revoke the designation of a jurisdiction for one of two reasons. First, the designation could be revoked if the Secretary finds, after giving the jurisdiction reasonable notice and an opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this subtitle. Second, the designation could be revoked if the jurisdiction's allocation falls below $250,000 for 3 consecutive years, below $225,000 for 2 consecutive years, or below $200,000 in any one year.

The Committee intends that funds be allocated to grantees in an expeditious fashion. As a rule, allocations would have to be made annually within 30 days after funds to carry out this subtitle are made available in appropriations. To provide for orderly program start-up, the Committee bill would require the first-year allocation to be made within 30 days after implementing regulations are promulgated. The Secretary would be required promptly to send each jurisdiction that receives an allocation a notification informing the jurisdiction of its allocation. If a local jurisdiction is not eligible to receive grants directly because its allocation amount is too low, the Secretary would inform the jurisdiction in writing how the jurisdiction may become eligible through the process described above.

*Approved Activities for Formula Allocation.*—The bill would give grantees the flexibility to determine how best to allocate resources among the six approved activities described above. HUD would establish standards and guidelines for the approved activities. The bill would require the Secretary to permit grantees to refine and adapt such standards for individual projects where dictated by local circumstances.

The Committee bill would allow a grantee to use up to 30 percent of the funds received under the formula program for "emergency activities". These activities would consist of homeless prevention activities as well as supportive services that are provided in emergency shelters. Under the existing Emergency Shelter Grants program, grantees are only permitted to use up to 20 percent of their formula allocations for such activities.

The Committee heard unanimous testimony that this 20 percent limitation unnecessarily restricts the ability of State and local governments to allocate homeless assistance in accordance with local needs and priorities. The need in some communities, for example, has shifted from building or rehabilitating new shelters to providing essential supportive services within existing shelters. A recent GAO study on homeless prevention demonstrates how demand for prevention monies has outstripped available resources. Not surprisingly, the Assistance Director for Housing in Washington State testified before the Housing Subcommittee that requests for services/prevention funding made up over one half his State's Emergency Shelter Grant allocation for fiscal year 1989.

The Committee believes that raising the percentage limit on "emergency activities" to 30 percent and applying that percentage to a much larger base should enable States, localities and service providers to address adequately their prevention and service needs.

Four of the six approved activities—homeless prevention, emergency shelter, transitional housing, permanent housing for homeless persons with disabilities—essentially mirror, with refinements described below, the activities now made eligible under the McKinney programs. The bill would preserve the current rules governing the existing McKinney homeless assistance programs to the extent consistent with moving to a formula allocation of a larger, consolidated program. Current requirements governing the application process for the Transitional Housing Program, for example, would be deleted. In contrast, requirements addressing the types of assistance that could be provided under that Program would be retained.

The fifth approved activity—transition to permanent housing—was originally contained in the Homelessness Prevention and Housing Rehabilitation Act introduced in the Senate on April 13, 1989 by Senator Lieberman. The sixth activity gives HUD the flexibility to develop new activities in the future so that the program can continue to evolve and meet changing realities and new challenges.

The major refinements to the existing McKinney programs would be as follows:

Homeless Prevention: The Committee bill would continue to define homeless prevention in broad terms. The Committee believes that states and localities should have a great degree of flexibility in using formula funds under the consolidated program for homeless prevention efforts.

A report recently released by the General Accounting Office, in accordance with Section 423 of the Stewart B. McKinney Homeless Assistance Amendments of 1988, illustrates the wide variety of prevention programs that have been implemented at the State and local levels. Some programs provide financial assistance, such as payments for rent, security deposits, mortgages, and heating bills. Others provide services such as legal aid, landlord/tenant mediation, budget counseling, and referrals to other assistance programs.

The Committee has been impressed by the creativity and innovation demonstrated at the State and local level. The Brooklyn Family Anti-Eviction Program, for example, has attorneys available in housing courts to immediately assist families with both legal problems and in identifying and accessing programs that could help them remain in their homes.

In addition to defining homeless prevention in broad terms, the Committee bill would continue the current restrictions that govern the most widely implemented prevention activity: the provision of short-term financial assistance to families who have received notices of eviction or termination of utility services.

Emergency Shelter: The Committee bill would make two major refinements to the existing Emergency Shelter Grant program. First, it would define emergency shelter as a facility designed to provide overnight sleeping accommodations and appropriate eating and cooking accommodations for homeless persons and families. The Committee recognizes that this definition provides minimum requirements. Supportive services are clearly essential to help persons make the transition to permanent housing and more stable living situations.

Second, the bill would require the Secretary to prescribe minimum standards of habitability to ensure that assisted shelters provide appropriate privacy, safety and sanitary and other health-related conditions for homeless persons and families. Grantees would be permitted to prescribe additional standards of habitability as well.

Minimum standards of habitability are being established in response to the evidence of intolerable conditions that exist in many emergency shelter facilities around the country. This evidence has been documented in testimony before this Committee as well as in numerous studies, articles and media reports. These conditions are not only morally unacceptable but also inhibit the ability of homeless families and persons to move out of the emergency shelter system. As Steven Banks, an attorney for the Homeless Family Rights Project in New York City, testified before the Housing Subcommittee on June 1, 1989:

> In contrast to the abysmal conditions at welfare hotels and barracks-style shelters, in apartment style emergency

> housing . . . homeless families are provided with a self-contained living unit, including cooking faciliites, a bathroom, and adequate living and sleeping space. As a result of the stabilizing effect of such an adequate environment and the provision of social services, families in such facilities are relocated to permanent housing after substantially shorter periods of time than families languishing in decrepit conditions in welfare hotels or barracks-style shelters.

*Transitional Housing.*—The Committee bill would make one major refinement to the existing Transitional Housing program. The bill would permit grants to be used to establish and operate a child care program for transitional housing residents.

The available statistics on the numbers of homeless children continue to shock the conscience. A U.S. Conference of Mayors survey of 27 large cities found that over one-third of the homeless are families with children. The National Academy of Sciences estimate that 100,000 children may be homeless on any given night. Children under the age of 18 are the fastest growing group among the homeless population. A recent report by the Children's Defense Fund found that the children of homeless families can be found in this country's streets, shelters, bus stations, and welfare hotels. These children are forced to share accommodations with drug dealers and prostitutes while their parents attempt to seek employment and permanent housing.

In the 1988 reauthorization of the McKinney Act, Congress authorized a program to provide employment assistance to homeless families. Provision of child care services is a logical extension of the 1988 amendment and the general objective of the Transitional Housing program to facilitate the movement of homeless families back to independent living.

Grants would be made to establish and operate child care services programs for homeless families either by establishing on-site child care facilities for the residents of homeless shelters or providing for child care services to homeless families at existing community child care programs.

Permanent Housing for Homeless Persons with Disabilities: The Committee bill would make several major refinements to the existing program providing Permanent Housing for Handicapped Homeless Persons. First, the bill would replace the existing terminology—which advocates for persons with disabilities believe perpetuates negative stereotypes—with "people first" language.

Second, the bill would clarify that a project sponsor could, with the approval of the Secretary, restrict occupancy within supportive housing to persons with disabilities who have similar disabilities and require a similar set of supportive services. The Committee's rationale for this amendment has been explained under the Supportive Housing for Persons with Disabilities section.

Third, the bill would, by virture of moving to a formula allocation, remove perhaps the chief impediment to efficient implementation of the existing program: the requirement that States, rather than nonprofit organizations, apply directly for funds. That requirement was established in recognition of the major role which

States play in the funding of supportive services for persons with disabilities. That role would clearly continue and be augmented when funds are distributed directly to States and localities under the consolidated program.

Transition to Permanent Housing: The Committee bill would add a new activity, pioneered in the State of Connecticut, to help families make the transition from homelessness to permanent housing. The bill would specifically permit grantees to provide assistance (in the form of a security deposit and the cost of rent for one month) to help very low-income families living in emergency shelter or transitional housing make the transition to permanent housing. Prior to providing such assistance to an eligible family a grantee would need to find (1) that the rent for the apartment is reasonable in comparison with rents charged for comparable units in the private, unassisted market; (2) there is reasonable prospect that the family will be able to sustain the rental payments for a reasonable period of time; and (3) the family has made reasonable efforts to receive assistance under AFDC or a similar local, State or Federal public assistance program. If an eligible family vacates the rental unit, a participating landlord would be obligated to return any portion of the security deposit (including reasonble interest) against which the landlord does not have a claim.

Discretionary allocation: The Secretary would retain 20 percent of the funding for the new consolidated McKinney program to help grantees and private nonprofit organizations (1) meet the urgent needs of homeless persons that are not being met by available public and private resources (2) in areas with an unusually high incidence of homelessness. Assistance would be made available in accordance with a national competition.

The eligible activities under the discretionary allocation are intended to give recipients of assistance maximum flexibility in addressing the housing and service needs of homeless persons and families. Assistance, for example, could be used for any activity that is an approved activity under the formula allocation program. In addtion, assistance could be used for activities that were eligible under the existing SAFAH program: (1) the purchase, lease, rehabilitation, renovation, operation or conversion of facilities to assist the homeless; (2) the transitional provision of supportive services designed to meet the special needs of homeless persons; and (3) the provision of supplemental assistance to emergency shelters and transitional housing: As under the SAFAH program, the Secretary could not provide supplemental assistance to emergency shelters and transitional housing unless the Secretary made certain findings about the availability of resources and the applicant's efforts to access such resources.

The Committee bill would establish minimum contents for applications for assistance under the discretionary allocation program. These requirements mirror, to some extent, the application requirements for the existing McKinney programs.

The Committee bill would require that applications provide at least the following information.

First, the bill would require a description of the proposed activities.

Second, the bill would require a description of the size and characteristics of the homeless population that would be served by the proposed activities.

Third, the bill would require a description of the public and private resources that will be made available in connection with the proposed activities.

Fourth, the bill would require reasonable assurances that property purchased, leased, rehabilitated, renovated or converted with assistance under this section (except for property to be used as an emergency shelter) would be operated for a least 10 years for the purpose specified in the application. This 10-year rule mirrors the limitation contained under the Transitional Housing and Permanent Housing for Homeless Persons with Disabilities approved activities.

Fifth, the bill would require evidence that the proposed activities will meet urgent needs of homeless persons that are not being met by available public and private sources.

Sixth, the bill would require the public official responsible for submitting a housing strategy for the jurisdiction to certify that the proposed project is consistent with the approved housing strategy. A local official would need to provide such a certification where the locality is a participating jurisdiction under the HOP program. State officials would provide the certifications in all other cases.

The Committee bill would also require the Secretary to establish selection criteria to govern the funding of eligible activities under the discretionary allocation program. There would be two sets of criteria. The first set would essentially be threshold criteria; if an applicant could not meet these tests, their application could not be funded (irrespective of the application's merit or innovation). These threshold criteria would look at resource and demand factors; the extent to which the proposed activities meet urgent needs of homeless persons that are not being met by available public and private sources and the extent to which the proposed activities are to be carried out in an area with an unusually high incidence of homelessness. The Committee intends and fully expects the Department to only fund applications for communities where the rapid growth in homelessness has overwhelmed the resources of the public private sector.

Once an application can be found to meet the threshold criteria, it would be evaluated under a second set of criteria. These criteria would be designed to induce certain kind of activities: provision of assistance to homeless persons who are not difficult to serve; use of property owned by government entities, including in-rem property; and coordination among State and local agencies administering housing, child welfare and public assistance activities. The criteria would also examine the capacity of the applicant to carry out the proposed activities.

The Secretary would be authorized to make a discretionary allocation to grantees in amounts that do not exceed the grantee's formula allocation. That is, a jurisdiction experiencing an unusually high incidence of homelessness could as much as double the funds made available to it under the formula allocation.

*Responsibilities of Grantees and Program Sponsors.*—The Committee bill would outline the responsibilities of grantees who receive funds by formula and competition as well as nonprofit organizations (project sponsors) who receive funds by competition. These responsibilities generally mirror restrictions governing activity under one or more of the existing McKinney programs.

Matching Requirement: The bill would require grantees to supplement grants provided under this subtitle with an equal amount of funds from non-Federal sources. The bill would contain a list of funding sources would qualify as a match. The matching provision largely mirrors the requirement contained under the existing Supportive Housing program, as amended by the Stewart B. McKinney Homeless Assistance Amendments of 1988.

Housing Quality: The bill would require grantees to assure that housing assisted under this subtitle will be decent, safe and sanitary and, when appropriate, meet all applicable State and local housing and building codes and licensing requirements. This provision generally incorporates part of the definition of supportive housing contained under existing law.

Consistency with Housing Strategy: The bill would require grantees to certify that activities undertaken by project sponsors with assistance from the grantee are consistent with the approved housing strategy of grantee.

Assistance to Homeless Persons: The bill would require grantees to certify that each project sponsor will administer, in good faith, a policy designed to ensure that the homeless facility is free from the illegal use, possession or distribution of drugs or alcohol: A similar certification is required as part of existing Comprehensive Homeless Assistance Plans (CHAPS).

Limitation on Use of Funds: The bill would require grantee to certify that neither assistance received under this subtitle nor any State or local government funds used to supplement such assistance will be used to replace other public funds previously used, or designated for use, to assist the homeless. This provision generally incorporates a statutory requirement contained under the existing Supportive Housing program.

Civil Rights Compliance: The bill would require grantees to certify that the grant will be conducted and administered in accordance with applicable civl rights laws.

Reports: The bill would require grantees to submit certain performance and evaluation reports. These reports would form the basis of an annual report submitted by the Secretary to Congress.

Site Control: The bill would require each grantee or project sponsor to furnish reasonable assurances of site control not later than 6 months after notification of an award for grant assistance. Grantees and project sponsors would also be required to obtain actual site control within 12 months after notification of an award for grant assistance or else funds will be recaptured and reallocated. A final site could be different from the original site if it is suitable and is located within the same jurisdiction. This provision generally incorporates a requirement contained under the existing Supportive Housing and SAFAH programs.

Prevention of Undue Benefits: The bill would give the Secretary the discretion to prescribe such necessary terms and conditions to prevent project sponsors from unduly benefitting from the sale of projects constructed, rehabilitated or acquired with assistance under this subtitle. This provision generally incorporates a prohibition contained under the existing Supportive Housing and SAFAH programs.

*Administrative Provisions.*—The Committee bill would establish a series of provisions to govern the administration of assistance received under the formula and discretionary allocations. As with the responsibilities established for grantees and project sponsors, these administrative provisions generally mirror provisions contained under one or more of the existing McKinney programs.

Limitation of Administrative Expenses. The bill would prohibit a grantee (or a project sponsor) from using more than 5 percent of the assistance received under this subtitle for administrative purposes. This provision mirrors the limitation contained under the existing Supportive Housing and SAFAH programs.

Income Eligibility. The bill would require homeless persons assisted under this subtitle to have incomes at or below 50 percent of area median income. This would clarify the general income eligibility requirements contained under section 103(b) of the Stewart B. McKinney Homeless Assistance Act of 1987.

Flood Elevation Requirements. The bill would require that flood plain standards applicable to housing acquired, rehabilitated or assisted under this subtitle be no more restrictive than the standards applicable to any other program administered by the Secretary. This provision generally incorporates the flood plain restriction under the existing Supportive Housing program.

Historic Preservation: The bill would apply the expedited process for compliance with Environmental Policy and Historic Preservation requirements of the 1974 Housing Act to the McKinney programs. This provision is identical to Section 443 of the existing McKinney law.

Recapture and Reallocation of Funds: The bill would establish rules for the recapture and reallocation of funds. If a State or locality receiving a formula allocation fails to obtain approval of its housing strategy, the Secretary would make the reserved amounts available under the discretionary allocation. Amounts reserved for a unit of general local government wuld be reallocated to the state if the state has obtained approval of its housing strategy. Otherwise, the locality's funding reservation would be made available under the discretionary allocation. The bill would also require the Secretary to reallocate, for use under the Section 8 SRO program, any funds remaining after the final funding round for the discretionary allocation in any fiscal year.

These rules differ from the rules governing the recapture and reallocation of funds under the existing Emergency Shelter Grant program.

GAO Audits: The bill would give the General Accounting Office the authority to audit the financial transactions of grantees and project sponsors insofar as they related to funds provided under this subtitle. Access to all books and records would be allowed.

*Strategy to Eliminate Welfare Hotels and Unfit Transient Facilities.*—Numerous articles and studies have brought national attention to two scandalous conditions: the use of commercial hotels for housing homeless families with children at exorbitant rates, and the reliance on barrack-style shelters to house such families in indecent, unsafe and unsanitary conditions.

The welfare hotel phenomenon perhaps best illustrates the explosion of homelessness in the 1980's and its attendant social, economic and human costs. With the emergency shelter resources of States and localities strained to the maximum, governments have been forced to pay for temporary shelter in commercial hotels at exceedingly high rates. The waste is enormous; the District of Columbia, for example, has paid hotels about $36,000 per year to house families of four. What aggravates the situation are the substandard housing conditions that these excessive payments often buy. As one witness testified before the Housing Subcommittee:

> New families continue to be regularly placed in hotel rooms with inadequate heat and hot water; bathrooms that lack privacy and are frequently inoperable; single rooms with one or two beds, even for families with several children; filthy, vermin-infested mattresses; no cribs for infants; and doors with broken locks. In these hotels, children have no place to do schoolwork. Food is often stored in bags suspended from the ceiling to keep mice from eating it. There are usually no cooking facilities. * * * These hotels offer little security, and children placed in them are regularly exposed to drug traffic, prostitution, and violent crime * * *

The use of welfare hotels is a symptom of an emergency shelter system under siege. It is not surprising that the same jurisdictions that have been forced to resort to the use of commercial hotels have also resorted to the use of barrack-style shelters to house homeless families. The report has described elsewhere the abysmal conditions which pervade many of these government or privately administered shelters.

The problem of welfare hotels and barrack-style shelters requires expeditious and targeted government action. For these reasons, the Committee bill would require the Secretary, within 4 months of the enactment of the National Affordable Housing Act, to identify the States and localities which continue to use welfare hotels and other unfit transient facilities. The Secretary would be required to develop a strategy to eliminate the use of such inadequate emergency facilities by January 1, 1992.

The strategy would specify actions to be taken: (1) to ensure that families with children currently residing in these facilities make a timely transition to permanent housing; (2) to provide sufficient emergency transitional and permanent housing to preclude the future use of such facilities; and (3) to make changes to existing Federal, State and local regulations that are necessary to eliminate the use of such facilities.

The Secretary would be given a powerful set of tools and authorities to implement the strategy. The Secretary could make special preferences under the discretionary allocation for applications that would contribute to the elimination of the use of these facilities. The Secretary could also place limitations upon a jurisdiction's allocation of its formula funds. Restrictions could be placed on a jurisdiction's use of funds under other programs like Section 8 rental assistance or rental rehabilitation. These will not be easy choices. Funds under all federal housing programs are scarce and activities under these programs are desperately needed. But the Committee has concluded that the intolerable conditions which persist in many emergency facilities serving the homeless must be at the top of the Nation's housing priorities.

The Committee notes that many jurisdictions, fueled by press exposes and public outrage, are already making progress on the first action described above: helping families making the transition from welfare hotels to permanent living arrangements. New York City, for example, was using 62 hotels to house 3,651 homeless families as of July 1987. As of February, 1990, 22 hotels were being used to house 1,271 families.

The Committee applauds these efforts and hopes they can move forward with all deliberate speed. In no way, however, do these efforts undermine the initial rationale for the strategy. The need to eliminate the use of unfit transient facilities remains an immediate and critical objective.

*Strategy to Assist Homeless Persons with AIDS and Related Diseases.* The Committee recognizes that people with AIDS constitute a growing proportion of the homeless population. The Partnership for the Homeless has testified that an estimated 28,000 to 32,000 people with AIDS and an additional 10,000 to 11,000 of their dependents are homeless throughout the country. This figure is expected to grow—to perhaps 101,000 homeless persons with AIDS by 1995.

The Committee recognizes that some cities face more severe problems than others. The National Coalition for the Homeless (Coalition) reports that in New York City for example, at least 8,000 to 11,000 people with AIDS are homeless. As many as 30,000 people with AIDS and their dependents may be homeless in 1993 in New York City, making this population the fastest growing segment of homeless people in the city, according to the Partnership for the Homeless. The AIDS Action Committee of Massachusetts reports that 30 percent of all homeless people in the city of Boston may be infected with HIV.

Housing, especially housing with supportive services, is extremely limited for people with AIDS. In Los Angeles, the Coalition has testified that only 5 out of 42 shelters will even accept someone who is infected with the HIV, and there is no supportive housing for homeless people with AIDS. The Coalition reports that the situation is even worse in Chicago where there is virtually no housing for homeless people with AIDS.

The Committee views adequate housing as the cornerstone of a comprehensive community-based network of services for people with AIDS. The American Hospital Association has testified that in New York City, from 10 to 30 percent of people with AIDS who are hospitalized do not need acute care, yet they cannot be discharged because they have nowhere to live.

Community-based care for people with AIDS is compassionate and cost effective; at the same time, hospitals are strained to care for HIV-infected patients. In 1991 alone, medical services for people with AIDS will cost at least $8 billion—if they get their care in home or community-based settings. If care is provided in hospitals, the cost will likely increase to $13 billion.

To respond to this growing crisis, the Committee bill would require the Secretary, within 12 months of the enactment of the National Affordable Housing Act, to develop a strategy to expand the supply of supporting housing for persons with AIDS.

In developing the strategy, the Secretary would (1) identify the States and localities which have a significant population of homeless persons with AIDS; (2) assess the extent to which existing housing and supportive service programs are serving such populations in these jurisdictions; (3) identify provisions in existing law that inhibit the development of supportive housing; and (4) identify other barriers (e.g. lack of capacity of nonprofits that develop AIDS-relaged housing) that inhibit the implementation of housing and supportive service programs.

The strategy would specify: (1) recommended changes to existing law; (2) capacity building measures that need to be taken; (3) appropriate preferences in the allocation of resources under the McKinney discretionary allocation; (4) appropriate limitations upon a jurisdiction's allocation of its McKinney formula funds; (5) appropriate set-aside of vouchers; (6) expedited decisionmaking or waivers or revisions of regulatory requirements as are appropriate; and (7) such additional restrictions on the use of funds under other programs.

As with the welfare hotel strategy described above, the Committee has invested the Secretary with a powerful set of tools and authorities to address this growing crisis. The Committee fully expects that the tools and authorities that are eventually selected will bear a close relation to the problems and needs that have been identified.

### *Section 8 Single Room Occupancy (SRO) Program*

Single-room occupancy hotels, many of which were built in the 1930s and 1940s, have served as safety valves in many cities—providing affordable housing to low-income persons who might otherwise have become homeless. According to one study, nearly 1 million SRO units were lost during the 1970's and 1980's to conversion, gentrification and downtown revitalization. [Homelessness, Health and Human Needs, 1989] This lost housing is generally considered to be a prime factor contributing to the homeless problems of the elderly poor, the chronically disabled and other low-income single persons.

In more recent years, as the homeless problem has grown, many cities have attempted to preserve these SRO hotels as a permanent solution to their chronic shortage of housing. The McKinney Act created the Section 8 SRO program to facilitate this effort. The SRO program has met with much success, adding 1,000 units to the housing stock in its first year of operation. These SROs are serving persons whose average income is $2,600. 74 percent of the residents had previously been living on the streets or in shelters. The demand for this program far outstrips the available resources. Applications for assistance under this program were 5 times greater than the available resources in fiscal year 1989.

A recent HUD Office of Policy Development and Research report hailed the SRO program as relieving the housing problems of many of the single, urban homeless.

> In addition to affordability, the SRO provided a more stable commanual environment not found in the isolation and chaos of street living or emergency shelters. A fixed address also allowed residents to receive benefit checks regularly, and to be seen by support service providers for follow-up and referral visits.

The Administration's housing proposal would have folded the SRO program entirely into the new Shelter Plus Care program where preference would be given solely to homeless persons with disabilities. The Committee agrees that homeless persons with disabilities have special need for housing linked with supportive services and has fully funded the Administration's Shelter Plus Care. The Committee, however, also recognizes that the housing needs of single homeless persons without disabilities are sufficiently great to warrant assistance. As the HUD study cited above confirms, this SRO housing provides an important option for single homeless persons. The Committee, therefore, has continued the current SRO program distinct from the new Shelter Plus Care Section 8 SRO program.

The HUD study also identified a number of distinguishing features of the Section 8 SRO program. About three fourths of the sponsors surveyed were nonprofit organizations. States and local governments financed over half of the development costs (including furnishing of units), primarily in the form of low-interest loans and grants. The vast majority of rents were at or below the Section 8 SRO fair market rent. Management costs were relatively high—nearly 25 percent of total operating costs compared to the 5–10 percent range found in normal apartment complexes. Tenants required extensive supportive services, which sponsors often perceived as inadequate.

Given these distinguishing features, sponsors—in the report and in correspondence with the Committee—have made a number of suggestions for improving the SRO program. The Committee believes that the Department can and should implement three refinements through administrative action. First, items such as counseling rooms, furnishings and modest levels of supportive services (e.g. caseworker assistance) should be made eligible costs. Second, HUD should fund more extensive supportive services (e.g. mental health and substance abuse counseling) where a sponsor can demonstrate that such services are needed by the tenant population and reasonable efforts have been made to obtain the services from alternative sources. Finally, the regulations should take into account the higher management costs (e.g. increased maintenance and security) which by definition will be incurred by Section 8 SRO facilities. The Committee intends that the costs delineated above be adequately documented in accordance with HUD procedures and that HUD fund such costs through exception rents when necessary.

*Shelter Plus Care*

*In General.*—The bill would amend the McKinney Act to include the Administration's proposed Shelter Plus Care program. Shelter Plus Care would link supportive services to rental assistance for homeless persons with disabilities including those who are seriously mentally ill, have chronic problems with alcohol, drugs or both, or have acquired immunodeficiency syndrome (AIDS) and related diseases. The new Shelter Plus Care program would provide three kinds of housing assistance: (1) a newly-created 5-year flexible rental assistance program, (2) assistance under an expanded section 8 Single Room Occupancy Moderate Rehabilitation program, and (3) a five-year program for assistance in leased or owned homes under section 202 of the Housing Act of 1959.

This housing assistance would be leveraged with supportive services funded from other sources. In order to receive this housing assistance, applicants would have to demonstrate that they will provide or secure supportive services appropriate to the needs of the population served and equal to the amount of rental assistance being funded by HUD. These supportive services can be provided by other Federal, State, local, or private programs.

Homeless persons who have chronic problems with alcohol, drugs or both, or have acquired immunodeficiency syndrome and related diseases have not been well served by existing homeless assistance efforts. While the McKinney Act funds a wide variety of programs to assist the homeless, the Committee believes that there should be a special effort to focus resources on this underserved population which requires such a high degree of both medical and non-medical care.

The National Alliance to End Homelessness estimates that 25 percent of the homeless population are mentally ill and 25 percent are alcoholics or drug abusers. Thus far, the problems of these homeless persons have been difficult to treat, due to the persistence of the problems, the recurrent nature of the problems, and the challenge of linking the homeless into the social service system.

> Drug or alcohol abuse sends people who may have only a fingerhold on society into a tailspin. Eventually they deplete their resources, lose their jobs, and alienate friends or family members who cease to want to help them. They end up on the streets, destitute and hopelessly addicted. And once they are addicted and homeless, there are few opportunities for drug treatment. (New York Times 3/22/89).

The Administration's proposal originally limited participation in this program to homeless persons who are seriously mentally ill or have chronic problems with alcohol, drugs or both. The Committee believes that the pressing needs of homeless persons with AIDS for housing and medical support services, warrant their inclusion in this program. (The housing and supportive service needs of homeless persons with AIDS are discussed in a separate section of this report.)

Currently, projects to assist homeless persons who are seriously mentally ill have a priority under several McKinney Act programs.

Under the new Shelter Plus Care program, independent eligibility status and priority funding would be extended to include homeless persons who have chronic problems with alcohol, drugs or both, or have AIDS and related diseases.

The new program would provide both transitional housing and permanent housing assistance, after any initial acute-care facility stabilization period, with emphasis on creating permanent housing arrangements. Research by the National Institute of Mental Health has shown that, in many cases, even the seriously mentally ill are better served by living in the community, with the assistance of appropriate supportive services, rather than being placed in institutional settings.

Shelter Plus Care grants would be provided through a national competition to States, units of local government, and Indian tribes. For the section 8 Single Room Occupancy Moderate Rehabilitation Program component, these entities would be required to apply in concert with public housing agencies (PHAs). For section 202 rental assistance, these entities would identify the nonprofit sponsors who would provide the housing. Applicants could apply for any combination of assistance using these three programs, thus permitting them to develop housing resources tailored to meet the needs of their communities and to the homeless persons being served.

The Administration's proposal obviously favors a tenant based approach to providing supportive services. Observers have commented that the service needs of eligible homeless would be better served with 15 year certificates. Although the Committee understands their concerns and have some reservations about the administration's approach, we have decided to accept the administration's proposal. The Committee intends to monitor the effectiveness of this program closely and make any necessary reviews and revisions.

The Administration's proposal would have replaced the existing McKinney SRO mod rehab and the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program with the Shelter Plus Care program. The Committee believes that these forms of assistance fulfill an important need. Funding requests for the SAFAH were 17 times greater than available resources in fiscal year 1990. Funding requests for the SRO mod rehab program were 5 times greater than available resources in fiscal year 1989. The Committee would continue the Section 8 SRO program and would consolidate SAFAH activities under a stremlined McKinney Homeless Assistance program.

*Supportive Services Requirements; Matching Funding.*—The Administration's language required a guarantee of matching supportive services funding for the full term of housing assistance. The Committee believes that this is too difficult a standard to meet since support services are generally funded on an annual basis at the state and local level compared to 5-year and 10-year contracts for housing assistance. The Committee believes that "reasonable assurances" of funding for the full term of housing should be sufficient.

If an individual's situation changes (i.e. through a relapse), services for that changed situation must be provided. The section would allow the recipient to vary expenditures for supportive services so that annual funding amounts would not necessarily be equal for each year of the term of rental housing assistance. This would enable recipients to develop a flexible supportive services program tailored to the changing needs of those being served. For example, services expenditures may be quite high in the early years of the program due to the need to stabilize those being served before they can be moved out into the community and into an independent housing setting.

The Secretary could recapture any unexpended rental housing assistance if the recipient fails to ensure that the supportive services are provided.

Units of government are in an excellent position to marshall the resources needed to assist eligible persons under this program and coordinate the provision of resources. In addition, governments are in the best position, because of the resources at their disposal, to undertake the outreach activities needed to identify those needing assistance and to help them receive this assistance. Thus, even in the case of the two programs which will be run by other entities, the role of the appropriate governmental entity must be a strong one.

Applications: An applicant would submit one application for any assistance requested under Shelter Plus Care: rental assistance, SRO, or Section 202 Rental Assistance. The application should include a description of the size and characteristics of the population of eligible persons, the identity of the proposed service providers and a statement of their qualifications, and a description of the supportive services that the applicant proposes to make available to eligible persons. The applicant could provide these services itself or contract with one or more entities for their provision.

*Selection Criteria.*—This section would also restrict the amount of assistance that could be awarded in the jurisdiction of any one unit of general local government to no more than 10 percent of the total assistance available in any fiscal year. The need for this program is great and funding for it should be spread over as many geographic areas as possible.

*Termination of Assistance.*—A grant recipient could terminate rental housing assistance to an individual, made available in any of the 3 sections, if that individual were to violate any program requirements. Recipients would be able to exercise judgment as to when such violations warrant termination. The National Coalition for the Homeless has pointed out that relapse is very common amongst substance abusers. Many fail repeatedly before they finally succeed. Local programs must ensure that they are serving those difficult to serve. However, local programs should not be forced to continue to provide assistance to persons who are unwilling to seek treatment for their problems. Recipients, especially with the assistance of their service providers, would be expected to do as much as possible to ensure that an individual's assistance is terminated only in the most severe cases. The Committee intends that reasonable efforts be made to intervene before terminating assistance and attempts be made to bring the person back into the program if termination of assistance does occur.

*Rental Housing Assistance.*—The five-year rental assistance program would be extremely flexible to be used in a variety of situations. The recipient would be responsible for developing a five-year housing plan for the homeless persons it proposes to serve and describing how these persons will be housed throughout the full five-year period. Recipients would receive five years of assistance but could design a program tailored on a yearly basis to the housing needs of those served because this assistance would not have to be evenly expended over the five-year period.

This rental assistance program is also designed to be sufficiently flexible to be used in a wide variety of housing situations. For example, it could be used in a building run by a community mental health agency which has beds for stabilization. It could be used in less structured, but still group, settings. It could also be used in existing rental units in the community. For up to the first two years of assistance, recipients could determine if persons should live in specific buildings if such determination is necessary for the effective provision of services. In the subsequent years of assistance, recipients will allow persons into as many independent housing arrangements as possible.

This program is intended to serve those homeless persons who have been homeless for long periods of time and have serious mental or health problems of long-standing. The program is not intended to serve those who can move immediately into unsupervised housing. For many, a period of stabilization, in a supervised situation, may be necessary. In addition, it may be difficult and inefficient to provide the necessary supportive services to persons scattered throughout the community. Thus, this section allows recipients the flexibility to offer assistance in certain buildings or neighborhoods in order to ensure service provision. In those instances where this is permitted, individuals receiving assistance may not use their assistance outside these pre-determined areas. However, because the program is intended to provide the least restrictive housing situations possible for these individuals, recipients will be encouraged to allow these individuals maximum freedom of choice feasible in selecting units, especially in the later years of assistance.

Recipients would be eligible to receive no more than 25 percent of the aggregate amount available over the five year period in any one year. This would be based on the appropriate existing fair market rent in effect at the time application is approved. If less than this amount were expended in one year, the surplus could be applied to subsequent years. The recipient would be able to exceed this 25 percent limitation if it can demonstrate to HUD that it has entered into final financial commitments assuring that the shortfall would be funded from other sources. In any case, applicants must ensure that assistance will be sufficient over the five-year period to enable an individual to be able to afford to live in the community while paying no more than 30 percent of income for rent for the full five years.

The flexibility of expenditures provided by this section would enable recipients to design housing programs which would address the needs of homeless individuals. Some housing situations may prove more costly than others. For example, an individual may need to reside in a unit which offers supervised care for an extended period as part of a detoxification program. Once stabilized, the individual may be able to move to a regular apartment or single-room occupancy unit. In this case, the pattern of expenditure of housing assistance would not be equal for each of the five years.

Although this program is different from the Section 8 voucher and certificate programs, the Committee fully expects that the rental assistance contracts provided under this program will be renewed when they expire.

*Tenant Rent.*—The bill would expect individuals receiving rental assistance to pay 30 percent of their income, adjusted according to the income rules which apply to HUD's housing assistance programs under the U.S. Housing Act of 1937. Homeless individuals served under this program would generally have no income when they enter the program. However, it would be expected that through the provision of supportive services, many would become gainfully employed, or be determined eligible for disability payments, at some time during the course of the program. At that point, they would be required to make some contribution toward rent, consistent with the requirements of receiving federal housing assistance.

*Administrative Fees.*—The Secretary would be required to pay the entity actually administering the housing assistance an administrative fee to be determined by the Secretary. For the housing assistance funds to be allocated in fiscal year 1991, this fee has been determined to be equal to the ongoing administrative fee allowable under the section 8 certificate program, plus an amount to take into account the additional housing search that may be necessary in order to place these individuals in existing, privately-owned rental housing units. If the recipient chooses to dictate unit choice during the first two years of assistance, this "hard-to-house" incremental fee would not be paid. No other administrative costs, including the costs of administering the supportive services or the entire program, would be eligible project costs. Neither rents paid by tenants nor these other administrative fees would count towards the match.

*Section 8 Moderate Rehabilitation for SRO Dwellings.*—This section will create an expanded SRO program different from the existing program in three ways. First, applications for assistance would be submitted jointly by (a) a PHA and (b) a State, unit of general local government, or tribe. Upon approval of an application, the Annual Contributions Contract would, as now, be between HUD and the PHA. However, in addition, there would be a second contract between HUD and the governmental entity to ensure that the matching funds for supportive services approved in the application are in fact provided and that the government undertakes necessary outreach activities.

Second, the new program would require that the full 10 years of housing assistance provided under this program be matched equally with funds for supportive services. There is currently no matching requirement in the program. A recently completed evaluation by HUD's Office of Policy Development and Research notes that the PHAs and sponsors participating in the program identified their inability to secure adequate supportive services for their clients to be a continuing problem. As with other components of the Administration's proposal, the Committee is concerned that other sources of funding may not exist and these requirements may discriminate against those communities already providing supportive services. The Committee will be monitoring this closely and will continue to work with the Senate Labor Committee to develop and support legislation to increase funding for supportive service activities through HSS.

Finally, eligibility for assistance under this expanded portion of section 8 Moderate Rehabilitation program would be changed to homeless persons with disabilities including persons who are seriously mentally ill, have chronic problems with alcohol, drugs or both, or have acquired immunodeficiency syndrome and related diseases.

This part would not contain the limitations on rehabilitation costs contained in section 441(e) of the McKinney Act because the Fair Market Rent cap, which limits the total amount of project costs that can be reimbursed through Federal rent subsidies, makes an additional limitation on rehabilitation costs unnecessary. In addition, the rehabilitation cost limit is frequently exceeded and funded through local contributions to a project from sources such as Community Development Block Grants.

The Contract requirements would virtually duplicate the current section 441(f) of the McKinney Act, the only difference being priority for occupancy would be restricted to persons with disabilities including persons who are seriously mentally ill, have chronic problems with alcohol, drugs or both, or have acquired immunodeficiency syndrome and related diseases. The current statue gives priority to homeless individuals in general. This section would still allow a PHA to place a homeless persons who is not disabled in a unit if there were no otherwise eligible homeless person.

*Occupancy.*—The bill would require an occupancy agreement between the tenant and the owner for at least one month. A recently completed study of the Section 8 Mod Rehab program by HUD's Office of Policy Development and Research found that the requirement for a one-year lease was deemed by sponsors to be unrealistic for homeless persons, since many homeless persons were accustomed to impermanence and were generally reluctant to commit to one-year leases. In addition, high turnover rates made the enforcement of the one-year lease difficult. On the other hand, the Committee believes it is important that there be an occupancy agreement between the tenant and the sponsor in order to create a sense of commitment to the treatment and services program.

The occupancy agreement developed by the PHA could include more than standard lease requirements. For example, a PHA could require, as a condition of occupancy, that a person participate in any supportive services appropriate to his or her needs. The requirements for an occupancy agreement, in combination with the ability to terminate assistance for violation of program requirements, would enable PHAs to deal with extremely harmful tenants.

This section would also limit vacancy payments to payments for completion of the month in which the unit is vacated, unless the unit would be occupied by another eligible person. This would be consistent with the statutory provision for the housing voucher program. Experience with that program indicates that owners do not require vacancy payments for a two-month period, as is currently permitted in the Moderate Rehabilitation program. In programs serving homeless persons, the need for units is such that the owner should be able to fill vacant units quickly. This is particularly true in this program where outreach to potential residents is integral to the program design.

In addition, this section would make inapplicable to this program the limitation contained in section 3(b)(3) of the U.S. Housing Act of 1937 that no more than 15 percent of the units under the jurisdiction of any PHA are to be occupied by "other single persons". Implementation of this limitation to the section 8 SRO Moderate Rehabilitation program might have a chilling effect on its implementation in some localities where PHAs have met, or will soon meet, this limitation.

*Section 202 Rental Assistance.*—The bill would add a leasing program to section 202(h) of the Housing Act of 1959 for providing housing assistance in group homes or independent living units. Homeless persons receiving assistance under this program would have to demonstrate that they were eligible individuals who were lower income.

Unlike the current section 202 program, the applicant would be a government entity, not a nonprofit sponsor. The bill would require that housing be provided through contracts between the government entities receiving grants and sponsoring organizations that are the owners or lessors of the housing. Sponsoring organizations of housing assisted under this section would be required to comply with the requirements of the section 202 program, such as qualifying as nonprofit entities and assuring that program limits on numbers of residents per project would not be exceeded. As with the rental assistance component, recipients would be expected to match housing assistance with an equal amount of supportive services.

Assistance under this program would be for five years, rather than 20 years in current law. Each contract would provide that the recipient could receive aggregate amounts not to exceed the appropriate existing housing fair market rent in effect at the time the application is approved, including adjustment of up to 20 percent. Recipients would be required to inspect units before assistance is provided to determine that the rent to be charged is reasonable and that the unit meets HUD-established housing standards. The recipient would be required to inspect these units at least annually. No assistance could be provided if the rent were unreasonable or the unit failed to meet housing standards, unless the recipient verified that the owner had corrected the deficiency.

The Secretary could pay the nonprofit entity actually administering the housing assistance an administrative fee in an amount to be determined by the Secretary.

## TITLE VII—PUBLIC AND INDIAN HOUSING

### *Subtitle I—Public Housing Revisions*

*Major Reconstruction.*—The Committee bill would consolidate the Major Reconstruction Program (MROP) within the Comprehensive Improvement Assistance Program (CIAP). Under existing law, HUD is authorized to commit up to 20 percent of the funds appropriated for new public housing development for the substantial redesign, reconstruction or redevelopment of existing public housing projects or units.

The Committee decided to retain a separate program of grants for the substantial redesign, reconstruction or redevelopment of public housing developments. The Committee believes such a program can be an important tool in the revitalization of severely distressed developments. These developments generally require major redesign to correct not only for years of deferred maintenance and the physical deterioration or obsolescence of major systems but for serious flaws in the original design. Many low-rise developments, for example, were built without attention given to notions of defensible space. High-rise developments often contained elevator banks open to the elements. In both cases, developments were densely populated.

The Committee notes that major reconstruction is generally more similar in scope and cost to new construction than to the type of routine modernization undertaken with CIAP funds. The Committee intends and fully expects that the Department shall establish special guidelines for the MROP program, including higher maximum per unit cost limits than established under the CIAP program. The Department has failed to do this in the past, despite Congressional intent expressed in appropriation acts. This failure has inhibited the ability of public housing agencies to carry out the type of activities and achieve the objectives intended by Congress. The Committee intends that the Department, in establishing separate cost and other guidelines for the program, work closely with representatives of the major public housing organizations and the Public Housing Advisory Board.

*Public Housing Management Reform.*—The Committee bill would contain a number of provisions designed to enhance the Department's ability to reform troubled public housing authorities. A Bond amendment further refined these provisions.

Under existing law, HUD may declare a PHA to be in breach of the Annual Contributions Contract upon finding that a PHA is seriously troubled. HUD then has the option to take over the PHA and operate the local agency itself or contract out the management until the deficiencies are corrected. In rare cases, local courts have appointed receivers to operate PHAs which have been grossly mismanaged.

The identification of troubled agencies is fraught with substantive and political difficulties. Many management problems stem from forces beyond the control of public housing managers—inadequate operating subsidies, unpredictable modernization funds, the recent explosion in drug-related criminal activity, political interference by local politicians. Congress and the Department have often exacerbated management problems by imposing rigid, costly requirements upon authorities, without providing the funding necessary to meet them.

Nevertheless, some PHAs no longer practice the type of on-site project management that is needed for good real estate management. GAO's study of the Kenilworth-Parkside sale, for example, demonstrated that some PHAs do not even use project-based accounting methods so that differences in operating, maintenance and utility costs can be calculated on a project-by-project basis. The Committee is concerned that some PHAs have been severely troubled for years, and the Committee intends that HUD and local government shall promptly take effective steps to remedy these situations.

The Committee bill would clarify and enhance HUD's authority to identify and reform the management of troubled housing authorities.

The bill would direct the Secretary to establish indicators to evaluate the management performance of public housing agencies. The Committee believes that past efforts to develop reasonable performance measures for PHAs have been over-complicated and largely unsuccessful. The Committee has, therefore, adopted seven simple performance indicators which it directs HUD to use in evaluating PHA performance: (1) number of vacancies and progress toward reducing vacancies; (2) modernization funds unspent after three years; (3) percent of rents uncollected; (4) energy consumption per unit (with appropriate adjustments for climate and for the characteristics of units and buildings); (5) average turn-around time for vacant units; (6) number of maintenance work orders outstanding; and (7) percentage of units uninspected by PHA to determine their maintenance or modernization needs. The Committee has chosen factors that are under the direct control of a PHA so that the indicators can be used to assess the quality of management of a PHA accurately.

The Secretary would also be required to establish procedures for designating troubled public housing agencies, based largely upon an agency's peformance under the indicators. The Secretary would then be directed to enter into agreements with each troubled agency, setting targets for improved performance of these agencies, strategies for meeting such targets and incentives or sanctions for effective implementation of those strategies. Significantly, HUD and the PHA would be required to seek the assistance of local public and private entities in carrying out executed agreements. The revitalization of the Chicago Housing Authority over the past few years is a strong example of the benefits of Federal pressure and local and civic involvement.

The bill would clarify HUD's authority to contract out the management of some or all of the public housing projects in a jurisdiction if a troubled authority is unable to abide by an agreement with the Department or otherwise substantially defaults upon the covenants or conditions to which it is subject. The bill would also make clear that HUD has the additional alternative of petitioning the courts for the appointment of a receiver to manage a severely troubled agency. As the National Housing Task Force noted, "[w]hile receivership amounts to an admission of administrative failure, it may be, in some instances, the only way to bring all parties and all resources to the table." The Boston Housing Authority is the most recent example of an agency resuscitated through imposition of a receiver.

The bill would require HUD to submit an annual report to Congress identifying the PHAs which have designated as troubled, describing the agreements that have been entered into with such agencies, describing the status of progress under such agreements and describing any additional remedies (alternative management or receivership) that have been sought or imposed. The Committee expects this report to be specific in describing the concrete steps being taken to improve living conditions for the tenants. The Secretary would be required to consult with the Public Housing Advisory Board in the preparation of this annual report.

The bill would also provide direction in two areas related to management performance—project-based accounting systems and prolonged unit vacancies.

The bill would require PHAs to establish a project-based accounting system by January 1, 1993. The Committee intends that project-based accounting shall be implemented in a way that serves the purposes of sound management and oversight, and not in a way that builds rigidities into public housing resource management.

The bill would give HUD the authority to reduce operating subsidies for units which have been continuously vacant for more than one year due to negligence of the PHA. The provision is intended only to apply to units that are vacant due to factors within the control of the PHA. Thus, HUD could not reduce operating subsidies where the PHA has not received sufficient funding to repair and turnover vacant units in an expeditious fashion.

Termination of Tenancy in Public Housing: The Committee bill would amend a provision of the U.S. Housing Act that was added by the Anti-Drug Abuse Act of 1988. This provision makes criminal activity grounds for eviction of public housing tenants if that action is appropriate in light of all the facts and circumstances. This language was limited to criminal activity on or near the public housing premises.

This section would make it clear that criminal activity, including drug related criminal activity, can be cause for eviction only if it adversely affects the health, safety, and quiet enjoyment of the premises. The committee anticipates that each case will be judged on its individual merits and will require the wise exercise of humane judgment by the PHA and the eviction court. For example, eviction would not be the appropriate course if the tenant had no knowledge of the criminal activities of his/her guests or had taken reasonable steps under the circumstances to prevent the activity.

Energy Efficiency Demonstration: The Committee will establish a demonstration program to encourage the use of energy saving techniques in public housing. Organizations such as the Alliance to Save Energy have repeatedly emphasized the importance of energy efficiency in making housing more affordable. The federal government currently pays more than $1 billion each year public housing energy costs. Studies have suggested that these costs could be substantially reduced with energy saving improvements. A recent HUD study estimated potential energy savings at 53% in a sample of Public Housing Agencies.

The demonstration program would provide technical assistance to 5 PHAs to demonstrate the opportunities for cost reduction in 5 public housing projects through the use of private energy service companies. These private energy service companies would analyze, install, finance, and maintain energy services for the public housing project. The energy service companies would then be paid according to the energy savings they generate. The bill would set aside $500,000 from the HUD Research and Development appropriation to fund this demonstration.

Preference Rules: Existing law establishes statutory preferences for tenant selection under the public housing program. Specifically, the law requires that preference be given to families that, at the time they are seeking assistance, occupy substandard housing, are paying more than 50 percent of family income for rent or are involuntarily displaced. A public housing agency is permitted to provide up to 10 percent of available vacant units to eligible families without regard to the statutory preference categories. This small exception is intended to enable the public housing agency to meet locally defined needs and objectives, including the need to select eligible families from the waiting list largely in the order they have applied.

The Committee has heard convincing testimony about the deleterious effects that the preference rules are having on the ability of public housing agencies to develop and sustain viable housing communities. The effect of the preference rules (when implemented in combination with income eligibility requirements) has been to concentrate in public housing developments the poorest of the poor. Many of these families and individuals have mutliple social, health and educational problems. Clearly, the problems generally associated with the inner city poor—high rates of unemployment and teenage pregnancy, broken families, lack of adequate education, drug-use and drug-trafficking, vandalism, random violence—are magnified and exacerbated by the concentration of families with children in dense, segregated living environments.

The bill would make two revisions to the preference rules. First, the bill would require a public housing agency, for not less than 50 percent (rather than 90 percent) of the units that are made available for occupany in a given fiscal year, to give preferences to families that fit within the federal preference categories. The agency would then be required to establish a formal system of preferences for the remaining units that reflects locally determined needs and priorities. This local preference system would be established after public hearing and would need to be in writing to enable public review.

Second, the Committee bill would ensure that a person evicted from public housing for drug related activity is ineligible for preferential admission to public housing under statutory preference categories for a minimum of five years unless there is documented evidence of rehabilitation. Under existing law, a public housing tenant, who is evicted for drug related criminal activity, may qualify for a Federal statutory preference, say, as a homeless peson and regain admission to public housing ahead of others on waiting lists. The language adopted by the Committee is intended to correct this anomally.

Public Housing Replacement: Section 18 of the United States Housing Act of 1937 prohibits the Secretary from approving a PHA's application for public housing demolition or disposition unless the PHA has a plan for the replacement of each public housing unit. The section permits such one-of-one replacement to be provided in total or in part through a variety of funding sources, including the use of 15-year rental assistance under Section 8. The section also requires the Secretary to agree to commit (subject to the availability of future appropriations) the funds necessary to carry out an approved plan.

The Committee bill would make three refinenments to existing law. First, the bill would as the result of a Bond amendment, make a limited exception to the existing replacement requirement.

The Committee has heard convincing arguments that the rigidities of the existing requirement has preventd cities from dealing with distressed projects that years ago ceased to provide decent living environments for low-income families. The City of St. Louis, in particular, identified a number of high-rise projects, built in the mid 1940's and early 1950's, which have experienced severe vacancies over a long period of time. Projects which once served 1000 and 684 families respectively now only house 450 and 150 families in substandard units. The City and local housing agency would like to demolish the units and replace them with family townhouses on the site. Yet the one-for-one replacement requirement is financially prohibitive. As a result, the buildings remain an eyesore, adding to the social and physical deterioration of the surrounding public housing projects and neighborhoods.

The Committee bill would address this problem by allowing a more flexible replacement requirement—at least one replacement unit for every two units demolished—in limited circumstances. Three tests would have to be met; the relevant project has experienced 35 percent vacancies for each of the five years preceding submission of the demolition application, the vacancy rate in the jurisdiction for standard rental units exceeds 10 percent and the local jurisdiction satisfies the UDAG definition of "severe economic distress". Thus the exception would be fairly constrained, applying only to situations where the targeted housing no longer serves as an affordable housing resource.

Second, the Committee bill would, as the result of the same Bond amendment, require a public housing agency to hold an open public hearing on the issue of demolition. The Committee believes that this provision would be an important addition to current law given the high emotions generally evoked by efforts to raze existing public housing. The provision would ensure that the public has ample time and opportunity to air their concerns and have such concerns taken into account before HUD approves a demolition application.

Finally, the Committee bill would require the Secretary to transmit to Congress, as part of each annual budget request, a report outlining the commitments that the Secretary has made to fund replacement plans under Section 18 and specificing, by fiscal year, the budget authority required to carry out such commitments. The Committee is concerned that the existing system permits the Department to approve replacement plans that call for the provision of certain assistance and then to neglect the need for funds to carry out those plans. The Committee fully expects that such reports would routinely lead to separate appropriations for replacement assistance in annual appropriations Acts.

Public Housing Advisory Board: The Committee bill would strengthen public and congressional oversight of public housing activities by establishing a Public Housing Advisory Board. The Board would have responsibility for providing advice to the Assistant Secretary on formulation of general policies and significant regulations.

The Committee believes that establishment of this Board could, over time, measurably improve the Department's regulation of and interaction with the public housing industry and inventory. As with many other federally regulated industries, there is a wealth of expertise, knowledge and experience concerning public housing at the local level which often is neglected by Federal decision-makers. The result of such neglect is negative: rules which do not translate to the day-to-day activity of most public housing managers, guidelines which make sense for one part of the inventory but not for others, and federal reactions and over-reactions to evidence of wrongdoing in a small group of authorities.

The lead-based paint issue is a case in point. The Department issued comprehensive guidelines on April 1, 1990 in accordance with the Fiscal Year 1990 Appropriations Act. Those guidelines have had a dramatic impact upon the CIAP program. Good management and practical sense dictated that the Department's administrative product would only be improved by the input of individuals who daily administer comprehensive modernization programs at the local level. Thus, at the behest of the Housing Subcommittee and other interested Congressional committees, a working group of HUD and EPA civil servants and public housing representatives met periodically to discuss the complexities associated with issuance of the report. Not all matters in contention were settled. The issue is and will remain controversial. However, this practice of communicating and sharing ideas outside the formal process of rulemaking and administrative decision has proven to be a positive step worth expanding upon.

The Committee expects that the role of the Advisory Board would evolve over time. It would be required, at a minimum, to issue an annual report to Congress assessing all the Department's activities that affect housing. The bill makes reference to some areas of particular concern that need to be addressed: the appropriateness of existing and proposed regulations, the adequacy of information systems (especially the Performance Funding System), the appropriateness of staff patterns, the adequacy of staff experience in public housing.

The Committee fully expects the Department to work closely with the Advisory Board. The Department might decide to have the Advisory Board comment in advance before publication of a proposed regulation. Or the Department might request that the Board examine particular deficiencies of existing systems or guidelines.

Public housing has been a vital component of the Nation's affordable housing inventory. To ensure that public housing remains so on into the future—in particular for the sake of the tenants who reside there—a more responsible and dynamic relationship between the governing and the governed must be forged.

Eviction for Criminal Activity: Drug dealings are daily occurrences across our Nation, and families who live in public housing are at particular risk. Drug related crime theatens the fundamental promise of decent and safe housing for families that live in public housing communities.

This section addresses two problems related to drugs in public housing. First, the committee has found that drug dealers who have been evicted from public housing too often use the excuse of picking up their mail to regain access to the project in which they used to live. This section eliminates the need for these evicted tenants to return to their old housing projects by requiring the local PHA to notify the postal service in the area of the eviction. The committee expects that the post office will take appropriate action to reroute the evicted tenant's mail away from the public housing project.

The second problem involves the issue of tenants' access to administrative grievance procedures if they are evicted for criminal activity. This section would authorize the Secretary to allow a PHA to circumvent the grievance process in cases where a PHA seeks to evict persons engaged in criminal activity that affects the health, safety, and welfare of other tenants. The Secretary could do so only if it is determined that the tenant will have an opportunity for a hearing in state court which provides the fundamental protections of due process. In such cases, the committee feels that state courts are often better able to interpret state landlord-tenant laws than a panel composed of representatives of the tenant, the PHA and a third party under the auspices of HUD. The decisions of these panels are generally non-binding and often delay the removal of drug peddlers, sometimes up to 12 months.

The Committee considers this provision to be a sound compromise between the competing interests. The tenant facing eviction will still be guaranteed access to fair procedures designed to prevent mistaken evictions. The PHA and other affected tenants will be assured that the eviction process will be prompt.

Consolidation: The Committee bill would consolidate the public housing development program within the Housing Opportunity Partnership (HOP) program. The Committee has learned that the Department is obligated under existing court decrees to provide public housing development funds to certain jurisdictions either to carry out desegregation activities or to satisfy the replacement requirements governing the demolition or disposition of public housing. The Department may also have entered into commitments (unrelated to litigation) to provide public housing development funds to certain jurisdictions for replacement purposes. The Committee intends that such funds continue to be provided to satisfy the Department's obligations under either court decrees or Department commitments and that the subsequent development of public housing proceed in accordance with the rules and guidelines in effect on the date of enactment of this legislation.

### *Subtitle B—Authorizations*

*Operating Subsidies.*—Operating subsidies are provided to public housing authorities to assist in funding the operation of their owned dwellings under Section 9 of the United States Housing Act of 1937. The Performance Funding System (PFS) formula is the primary system of determining operating subsidy requirements. The subsidy amount is the difference between the estimate of operating costs that is calculated based on the PFS formula minus an estimate of income from rents and other sources.

The Housing and Community Development Act of 1987 authorized $1,530,000,000 for operating subsidies for fiscal year 1989. The Appropriations Committee appropriated $1,795,600 for this account in fiscal year 1990. Additional funds were recently appropriated in the Supplemental Appropriations bill.

The Committee bill would authorize $1,865,000 for operating subsidies for fiscal year 1991, $1,940,100 for fiscal year 1992 and $2,017,200 for fiscal year 1993.

*Comprehensive Improvement Assistance Program (CIAP).*—Section 14 of the United States Housing Act of 1937 authorizes the Comprehensive Improvement Assistance Program (CIAP) to fund the modernization, rehabilitation, maintenance and improvement of public housing developments.

The Community Development Act of 1987 authorized $1,732,300,000 for the CIAP program in fiscal year 1989. The Appropriations Committee appropriated $2,030,000 for this account in fiscal year 1990.

The Committee bill would authorize $2,217,000 for the CIAP program in fiscal year 1991, $2,306,000 in fiscal year 1992 and $2,398,400 in fiscal year 1993. The bill would set aside funding from this account for the Major Reconstruction program (MROP), Project Independence and resident management.

### *Subtitle C—Project Independence*

*Purpose and General Program Design.*—The families who live in public housing are generally very poor. The average income of public housing tenants has been declining in relation to area median incomes. Incomes of public housing residents have fallen significantly in real terms for the past thirty years for two basic reasons: (1) changes in the composition of cities and (2) federally mandated changes in tenant assignment policies, applicable income limits and minimum and ceiling rents. The average public housing resident now has an income of less than $6,000. More than 75 percent of the households are headed by a single adult. More than half receive public assistance.

The Committee believes there is an urgent need to provide educational and employment training and support services to public housing residents. The training and services currently offered to these families is woefully inadequate and, all too often, provided in distant locations. Families with small children generally have to travel to four different locations to receive child care, education training, job training, and health care. The travel costs and time requirements can pose a powerful disincentive to making the transition to gainful employment.

The Committee bill would establish a new program called Project Independence to provide families with children living in public housing with greater access to employment, day care, educational and other services. Project Independence would attempt to meet the need of residents—and resolve the shortcomings of current service programs—by developing facilities on or near the premises of pubilc housing developments to accommodate the provision of supportive services to the residents.

Project Independence would operate on an incentive basis, making new forms of HUD assistance available only to public housing developments that have already received assurances of supportive service funding.

The Committee expects that funding for such services would come from a variety of sources. States and localities would be encouraged to collocate supportive services that are made available under recent welfare reform legislation—the Family Support Act of 1988—in public housing projects. The heavy concentration of AFDC recipients in public housing may actually provide some cost-savings since collocation of services will entail economies of scale.

States and localities would also be encouraged to collocate supportive services that are funded under existing federal, state, local and private programs.

*Eligible Activities.*—The Committee bill would authorize the Secretary to provide funding for three types of activities.

First, renovation of existing public housing developments would be supported to accommodate supportive services. On-site renovation might include the conversion or combination of vacant dwelling units in a public housing project to create the common space necessary for the provision of supportive services. Such activity might also include the renovation of existing common areas. The bill would amend Section 9 of the Housing Act of 1937 to prevent a PHA from losing Federal operating subsidies by combining adjoining apartments. Current regulations discourage such activities by decreasing operating subsidies upon the loss of existing apartment units.

The Committee believes that on-site renovation would have some important side benefits for the overall environment of a public housing project. The provision of supportive services on the premises of a public housing project would mean that existing, deteriorating units on the property would be renovated for use as a service center, improving the appearance of the project in critical central areas. Use of such units for nonresidential purposes would also reduce congestion in large projects.

The bill would also authorize HUD to provide funding for the renovation of buildings located near the premises of one or more public housing developments in order to accommodate the provision of supportive services. The Committee expects that such strategically located facilities would be able to serve as satellite support centers for scattered developments. Such facilities might prove to be particularly useful in the case of small public housing authorities.

Second, supportive services could be assisted on a start-up, transitional basis. The leveraging of housing and supportive service funds offers a cost-effective way to help dependent families with children make the transition to self-sufficiency and independence. But the absence of programs that target services directly to public housing as well as constraints in existing supportive service programs can deny funding that is needed in the initial years of Project Independence for all services.

The Committee bill would, therefore, authorize the Secretary to provide transitional supportive service funding where other sources of funding are temporarily unavailable. Applicants for such service funding would need to demonstrate that (1) the qualifying services are appropriate to improve the access of eligible residents to employment and educational opportunities, (2) the public housing agency has made diligent efforts to use or obtain other available resources to fund the designated services, and (3) there are reasonable assurances that long-term funding for the qualifying services will be available from other sources.

The bill would require that funding for transitional services be phased out over a period not to exceed 3 years.

Third, the building of administrative capacity could be assisted. The bill would ensure that public housing agencies have the capacity to perform functions vital to the provision of support services. The employment of service coordinators would be made an eligible activity under the program. These management personnel would have a number of responsibilities including (1) assessing the training and service needs of eligible residents, (2) tailoring the provision of services to the needs of such residents, and (3) mobilizing public and private resources to ensure that the necessary services can be funded over an adequate time period. The bill would require the Secretary to establish minimum qualifications and standards for service coordinators.

*Applications.*—The Committee bill would establish minimum contents for applications for assistance under this program. The bill would require applications for HUD assistance under Project Independence to provide information on 5 important areas.

First, the bill would require a description of the services that can reasonably be expected to be made available to eligible families over a 5-year period. The Secretary may require a showing over a longer period if substantial rehabilitation is needed to accommodate the provision of supportive services.

Second, the bill would require a firm commitment that services would be provided for at least 1 year following the completion of renovation and rehabilitation activities.

Third, the bill would require a description of the entities or programs that can reasonably be expected to fund or provide services for the 5-year (or longer) period.

Fourth, the bill would require the appropriate State or local agency to certify that the services identified by the applicant are well designed to provide eligible families with access to education and employment opportunities. It is expected that the types of supportive services provided would vary from project to project depending upon the individual service needs of eligible residents and the available resources of different jurisdictions.

The bill would also require the State or local agency to certify that there is a reasonable likelihood that services would be funded for the 5-year (or longer) period.

Finally, the bill would require a description of the assistance that the PHA seeks under Project Independence.

*Selection Criteria.*—The Committee bill would require the Secretary to establish selection criteria to govern the funding of eligible activities under Project Independence. The bill would require that such criteria take into account a number of factors relating to (1) administrative capacity, (2) the need for the identified services, (3) the extent to which the proposed rehabilitation activities are appropriate to accommodate the services, (4) the extent to which the PHA has shown that such services would be provided for the statutorily-required period, and (5) the past performance of the PHA. The Committee believes that HUD should not "look behind" the package of supportive services contained in a given application to determine whether the package sufficiently addresses the needs of families residing in a particular public housing development. That assessment would have been already made by state and local agencies as expressed in the required certification.

*Qualifying Supportive Services.*—The Committee bill would define "qualifying supportive services" as meaning new or significantly expanded services that the Secretary determines are essential to provide families living with children with public housing with better access to educational and employment opportunities. The bill would provide a non-exclusive list of exemplary services.

*Amendment of Public Housing Rent Rules.*—The Committee bill would amend Section 3(a) of the United States Housing Act of 1937 to exempt residents participating in a Federal, State or local program providing employment training and supportive services from increases in rent while they are actively engaged in such programs and for a transitional period after finding employment. Under existing law, rules regulating rents in public housing create a disincentive to work since increases in income precipitate increases in rent. Working low-income families who pay income and social security taxes face a reduction in their disposable income, but they receive no compensatory reduction in their adjustable income for rent.

The Committee bill would place a moratorium on rent increases while an individual or family member is actively engaged in a self-sufficiency program and for a transitional period thereafter so long as the moratorium does not exceed 3 years. Income eligibility for public housing will also be assumed during this period.

The bill would, therefore, preserve present benefits for program participants and provide a transitional period to adjust to increased income—important incentives for those families seeking to become less dependent on welfare. In this regard, the bill would follow the lead of recent welfare reform legislation—the Family Support Act of 1988—which provides transitional periods of continued eligibility for services such as Medicaid, AFDC, and day care.

### *Subtitle D—Indian Housing Title*

*In General.*—American Indians and Alaska Natives experience some of the worst housing conditions in the country. According to the National American Indian Housing Council.

> Almost one quarter of all American Indians and Alaska Natives live in housing that is dilapidated, substandard, overcrowded and in need of basic plumbing facilities.

A 1988 Bureau of Indian Affairs survey of 186,000 Indian households estimated that 93,000 new or substantially rehabilitated units are needed. This rose from an estimate of 63,000 units in 1970. Because of the unique status of Indian trust lands, conventional means of financing residential construction and rehabilitation in

Indian areas are severely limited. Federal housing assistance is often the only available means to develop decent housing.

But during the past decade, while the housing need in Indian areas has grown, Indian housing programs have sustained severe funding cuts. The Administration has continued this trend with a fiscal year 1991 budget request that, once again, eliminates the funding for Indian housing development programs. The Committee feels that this is inappropriate because of the growing need and the absence of alternative housing financing in many Indian areas.

The Committee has attempted to address the housing needs of Indians in several ways. The bill would increase authorizations for the Indian housing development program to create 2,300 units per year. A set-aside for Indians is included in the bill's new HOP program to increase the supply of decent, affordable housing in Indian areas. The Farmers Home rural housing loan program would be amended to prevent alienation of Indian lands and therefore encourage increased participation in the program by Indians. The Committee intends that matching requirements in the Administration's HOPE initiative be defined more broadly for the purposes of Indian participation in the program.

*Disposition of Interests on Indian Trust Lands.*—Private mortgage insurance is often difficult to obtain on Indian reservations or in other Indian areas. Many Indians are reluctant to risk alienation of trust land conventional home-financing plans—including federal programs for low and moderate income families such as FHA and FmHA programs. In the last five years, Farmers Home has made less than one-half of one percent of their 502 and 504 loans and grants to Indians.

The bill would clarify the FmHA rural housing loan program to insure that a default in this program would not lead to alienation of trust land. In the event of a default on Indian trust land, the property would be transferred or sold to an eligible tribal member, the tribe or tribes. In 1983, the Federal Housing Administration Insurance Program was similarly amended to facilitate its use on Indian lands. The Committee hopes that this will open a valuable, largely untapped resource for use on Indian reservations.

The Committee hopes that forthcoming recommendations from the Commission on American Indian, Alaska Native and Native Hawaiian Housing and the Veterans Committee Commission will be implemented to further expand the participation of Indians in federal low-income home-financing programs.

### *Subtitle E—Public and Assisted Housing Drug Elimination*

*Need for Action.*—The Committee is alarmed by the high level of drug activity and violence in and around public housing. In many cases, this problem has proven overwhelming to local law enforcement agencies, leaving tenants literally defenseless to the murders, muggings, extortion and other types of violence around them.

A recent HUD survey found that more than half of the PHA's in the eastern part of the country reported problems with drug abuse. The National Association of Housing and Redevelopment Officials found that over half of the PHA's from around the country face a similar problem.

*The 1988 Act.*—The Public Housing Drug Elimination Act (PHDEA) was authorized in 1988 in the Anti Drug Abuse Act of 1988 (P.L. 100–690) as a pilot program to provide public housing agencies with federal grants in an effort to eliminate drug related crime in public housing projects.

The PHDEA established a competitive grant program under which PHA's and tenants are provided with funding to fight drug-related crime. Funds can be used, for example, to hire security personnel, to make physical improvements specifically designed to enhance security to train and equip tenant patrols, and to fund innovative programs to reduce the use of illegal drugs in public housing.

*Reauthorization and expansion.*—The Committee legislation extends the program through fiscal year 1992 with some modifications. First, the reauthorization expands the program to all federally assisted housing, including that which is privately owned. The law currently limits the program to public housing authorities.

A recent survey of 8,000 families in these properties indicated that 61 percent felt that drug activity in their housing development was "high" or "average" and over 78 percent were aware of drug dealers operating on the property. Over 52 percent of the tenants felt personally in danger from drug dealing or use at their property.

The committee has found from numerous witnesses that privately owned government assisted housing faces the same problems, but have inadequate resources available to eliminate the drug problem. The Omnibus Drug bill made no provision to provide resources to this housing, nor does the HUD budget have any provision for addressing this problem.

Current HUD policy places the burden solely on the owner. The committee has found that this is increasingly unworkable. Income from operations which normally is used to maintain the property must be diverted to security services which accelerates the physical deterioration of the property. Owners receive no cash contributions or tax benefits.

The committee feels that HUD needs the resources to negotiate with the owners to develop effective strategies. Where PHA's have the organization and resources provided by HUD, the privately owned stock lacks any established HUD policy. This section provides the resources and policy by allowing publicly assisted, privately owned housing to benefit from the same program as public housing.

The committee, however, intends that this program will remain for public housing primarily. Further, the committee would expect the Secretary to apply this section only to projects that could not have foreseen the extent of the drug problem in their project at the time the owners originally contracted with HUD. And it is the committee's intent that owners of federally assisted housing who receive assistance under this program would be required to retain the low income affordability restrictions of the housing for the term of the mortgage or for as long as HUD agrees to renew the rental assistance contracts.

Tenant participation: The Committee recognizes that the success of anti-drug plans generally depend on tenant involvement. The bill clarifies that in selecting applications, the Secretary of HUD should consider the extent to which tenants are involved in the design and implementation of the PHA's anti-drug plan.

Applications: The Committee bill details the information that must be included in applications to HUD. This language would codify regulations that HUD adopted in 1989. The Committee expects that this provision will help assure accountability in the program.

Selection criteria: The Committee bill clarifies that all funding decisions must be based exclusively on the stated criteria included in the existing law. This provision is included in response to proposed rules developed by HUD that would have given the Secretary discretion to consider factors other than those specified in law, such as geographic location and PHA size. It is the committee's intent that the Secretary should not have such authority.

The committee recognizes that the critiera necessary for public housing applications may differ for privately-owned, publicly-assisted housing. The Secretary is, therefore, expected to establish separate guidelines for each type of housing. The committee intends that these separate criteria are developed in consultation with state finance housing agencies.

As the program evolves, many grant recipients will be reapplying for extensions. The committee expects that HUD would permit such funding extension, but only pursuant to a review procedure which the Secretary establishes. Such a review would take into consideration of the grantees performance as well as considering the need of the project relative to other applicants.

It is the intention of the Committee to provide 0.5 percent of the total authorization for the Public and Assisted Housing Drug Elimination Act of 1989, to carry out the evaluation required under Subtitle E.

## TITLE VIII—RURAL HOUSING

*Rural Housing Need.*—The Committee finds a compelling need for increased funding for rural housing assistance. As noted by the National Housing Task Force, some 4.3 million families in small towns and rural areas are burdened with serious housing problems. Two million families live in substandard housing. The Center on Budget and Policy Priorities found that 72 percent of rural, poor, renter households pay over 30 percent of their income for rent. Moreover, the National Rural Housing Coalition has documented over 200 rural counties with poverty rates above 20 percent and substandard housing rates above 10 percent. The production of rural housing has fallen behind demand, and the Congressional Research Service has documented an annual shortfall in rural housing starts of 75,000.

The Committee also finds FmHA rural housing programs to be oversubscribed. The backlog of approved pre-applications and applications for section 515 rural rental housing is nearly four times the amount appropriated in fiscal year 1990. Nationally, FmHA can fund only one in three section 502 homeownership applications it receives. Serious backlogs in demand also exist in farmworker housing, as well as the housing preservation and section 504 grant programs.

The Committee bill would authorize existing programs with an annual increase of about 4 percent to help address this substantial backlog.

Deferred payment loans for low-income homeownership: Section 502(d) of the Housing Act of 1949 requires that 40 percent of the annual authorization for homeownership loans be set aside for very low income borrowers. Not every state has used this set-aside successfuly. The Committee believes there is considerable evidence that factors other than household income determine the risk inherent in any single-family housing loan. This section grants the Secretary the authority to defer up to 20 percent of the repayment of principle on a section 502 homeownership loan when such a deferral is necessary to allow a very low income applicant to make the scheduled payments. The authority would be available in states where an average of 10 percent of the very low income set aside had not been obligated since 1983, and only to borrowers who can reasonably be expected to pay the deferral during the life of the loan.

Assistance to underserved areas: Evidence indicates that many of the country's poorest and most remote rural counties have not received an equitable share of the rural housing made available by Congress. To redress the balance, the Secretary would be directed to designate in each of the next three fiscal years 100 counties that were both poorly served and are in particular need of assistance during the period of 1986-1988.

The Committee recognizes that housing delivery mechanisms common to more poplous areas are unlikely to be available in targeted counties. Therefore, the legislation authorizes the Secretary to provide grants to community housing development organizations or units of local government for capacity building purposes. These grants may not exceed the reasonable costs that are incurred in preparing a loan application.

*Housing Preservation Grant.*—The Committee has found that the administrative procedures necessary for the competitive awards of Housing Preservation Grants under Section 533 leads to grant awards late in the fiscal year. If a grant is subsequently deobligated late in fiscal year, the program loses its funding. This section requires that deobligated money be used for preservation grants in subsequent years.

The Committee underscores the fact that the Housing and Community Development Act of 1987 directed the Secretary to issue regulations implementing a grant program for the preservation of rental properties under Section 522. The Committee now further directs that the initial grants for this purpose be made before the end of fiscal year 1991.

Transfer of property: Current law permits the Secretary to transfer single family housing in HUD's inventory to public agencies or nonprofit organizations for use as rental or cooperative housing. This section would additionally permit the transfer of these properties to for-profit entities that have good records of providing section 515 multifamily rental housing. The Committee intends that this authority be used only in areas where public agencies and nonprofit organizations are not able to receive transfer of all eligible properties.

The Committee expects that the Secretary would use this new authority with considerable care and only after taking into account the recommendations of appropriate parties, such as community organizations and tenants.

At a minimum, the Secretary should assure that units transferred would be available and affordable to low-income households for the term of the loan. The Committee notes that Section 206 of the HUD Reform Act of 1989 (PL 101-235) also prohibits the prepayment of Sec. 515 loans that were made after passage of that Act, for the life of the 50 year mortgage. For-profit owners of such properties would have to observe these same low-income use restrictions, and keep the projects within the low-income housing stock for 50 years.

Reuse of loan authority: After a build-developer has satisfied all of the FmHA loan processing procedures for a Section 515 multifamily housing project, the agency obligates appropriated funds for the permanent financing of the apartments. During the construction period, financing is provided by an interim lender acceptable to FmHA.

The Committee has found that, occasionally, the interim lender must foreclose to protect its loan and the low-income housing project for reasons beyond the control of FmHA or the lender.

A decision of the Comptroller General of the United States as interpreted by USDA attorneys has created a problem in existing law. The effect of the decision is that once foreclosure takes place, the original loan obligation is voided and the appropriated funds are lost—the funds cannot be transferred to an acceptable new borrower who intends to finish the project. This creates a problem for the interim lender and it is costly to FmHA because it must, in effect, process a new loan application and obligate new loan funds to complete the project. As a result, FmHA finances the same project and same number of units twice.

This section would give the FmHA the authority to transfer obligated loan funds to a new borrower entity for a project in the event of a foreclosure or other legal action that removes the original borrower.

*Rights of Appeal.*—This section amends Section 510(g) of the Housing Act of 1949 to require that all FmHA decisions that are not based on objective standards contained in published regulations be included in FmHA appeals regulations. FmHA has interpreted this to permit FmHA to exclude from the appeals process decisions based on subjective judgments. Such decisions include decisions as to whether a particular dwelling qualifies for FmHA financing and other important decisions that deny, reduce or terminate assistance to borrowers or applicants. The Committee bill would make such substantial decisions subject to appeal.

Equity take-out incentive: The Housing and Community Development Act of 1989 authorized the establishment of an "equity take-out" reserve account for Section 515 assisted rental projects financed after enactment of that legislation. The 1989 Act funded this reserve by an annual increase of $2 per month on all units not occupied by low-income tenants without rental assistance.

In a letter from FmHA to the Senate Subcommittee on Housing in February, 1990, the Assistant Administrator brought to the attention of the Committee an ambiguity involving tenants who move into a unit after the initial tenant. According to FmHA's interpretation, all replacement tenants would pay the same rent paid by the previous tenant, regardless of income. The Committee recognizes that the need to fund this reserve account adequately must be balanced, as much as possible, against the ability of incoming tenants to pay.

This provision would take both of these concerns into account by requiring unassisted low-income tenants to pay only the initial $2 regardless of who occupied the unit previously. Conversely, replacement tenants who are moderate-income or who receive federal assistance would pay the rent that would have applied to the unit if a tenant in a similar income category had previously occupied the unit up to that time. This clarification would ensure that the account will grow based on the contribution of those tenants who can best pay without burdening tenants who are already required to pay more than 30 percent of their income for housing.

## TITLE IX—COMMUNITY DEVELOPMENT

*In General.*—The Community Development Block Grant (CDBG) program would be reauthorized through fiscal year 1993. The bill would maintain the program in its existing form allowing funds to be used for both physical development and human services.

The Committee intends to retain flexibility of the CDBG program, which allows states and localities to decide how to use the funds provided they use the funds for activities that: (1) benefit low-income and moderate-income persons; (2) prevent or eliminate slums and blight; (3) meet urgent community development needs. The Committee would retain the current structure which encourages localities to set community development priority works well in enhancing community development, economic development, and neighborhood revitalization. The Committee believes that the current requirement that at least 60 percnet of CDBG funds be used to support activities benefiting low-income and moderate-income families should be maintained.

*Authorization.*—The Committee bill authorizes $3.031 billion for fiscal year 1991; $3.154 billion for fiscal year 1992; and $3.279 billion for fiscal year 1993 for the CDBG program.

*Eligible Activities.*—The bill would allow CDBG funds to be used for technical assistance to public or private nonprofit entities to carry out neighborhood revitalization or community economic development. Current law allows CDBG funds to be used for capacity building and technical assistance to for-profit entities. HUD has not allowed non-profit organizations to receive CDBG funds for technical assistance and capacity building even though non-profit organizations are increasingly important in neighborhood revitalization activities. The Committee believes that allowing non-profit organizations to receive CDBG funds for technical assistance and capacity building will improve the managerial and administrative capabilities of these organizations and make them more effective in carrying out CDBG activities.

*Public Services.*—In futhering the CDBG program objective of encouraging localities to meet local community development needs, the bill allows entitlement communities to use up to 15% of gross income received by a recipient or subrecipient directly generated from use of CDBG funds for public services. Currently entitlement communities can use up to 15% of their CDBG funds for public service purposes, but are not allowed to use 15% of program income for public services. A number of communities have been granted waivers from the 15% public service cap to allow them to use program income for public services purposes. This provision would provide for a small but important increase in the amount of funds that may be used for public services while retaining the overall physical improvement purpose of the program.

The Committee bill gives states needed flexibility to designate certain communities as eligible to use larger than normal portions of a CDBG grant for public services. Under current law, a state must allow each locality to use 15% of its grant dollars for public services. This requirement limits the ability of states to provide large grants to localities who are experimenting with using CDBG dollars for large public service project such as: day care centers, drug rehabilitation facilities, and meals on wheels. Currently, large entitlement communities have the flexibility to use 15% of their grant dollars for these projects, but states to not have this flexibility.

*Guarantees.*—The Committee bill would reauthorize the Section 108 Loan Guarantee Program at $160 million for fiscal years 1991, 1992, and 1993.

*Neighborhood Reinvestment Corporation.*—The Committee bill would reauthorize the Neighborhood Reinvestment Corporation at $28 million for fiscal years 1991, 1992, and 1993.

*City and County Classification.*—The Committee bill would permit any area that was classified as a metropolitan city or urban county for at least 2 years to retain the classification. This provision would continue the entitlement eligibility of any city or county that was classified as a metropolitan city or urban country for at least 2 years under basic eligibility criteria applicable to all cities and counties.

*CDBG Sanctions.*—In an effort to safeguard the CDGB program from fraud and abuse, the Committee bill includes a provision that would provide the Secretary with the authority to adjust, reduce, withhold, or withdraw amounts of the annual CDGB funds if after providing a grantee an opportunity for a hearing the Secretary determines that the grantee fails to satisfy standards delineated in the Federal regulations which govern the CDBG program.

This section amends Sections 104(e) and 111 of the Housing and Communmity Development Act of 1974 to synthesize sanctions and codify the decisions of the United States Courts of Appeals that upheld the intent of Congress in Section 111 that local government grantees be given reasonable notice and an opportunity for a hearing before an administrative law judge prior to the Secretary imposing sanctions of termination, reduction or withholding of any grant made or to be made under Title I of the Act. The decisions by the U.S. Court of Appeals for the District of Columbia in *Kansas City* v. *HUD* 861 F.2d 739 (D.C. Cir. 1988) and the U.S. Court of Appeals for the First Circuit in *City of Boston* v. *HUD* F.2d (1st Cir. 19) correctly interpret Congress' intent that the procedural requirements of Section 111 be accorded before the Secretary may impose a permitted sanction upon a recipient of grants under Title I.

This provision focuses on the future administration of the CDBG program. It emphasizes the Committee's intent that, before imposing any sanctions for non-compliance, the Secretary shall give all CDGB grantees an opportunity for a hearing by inserting a reference to such a "hearing" directly in Section 104(e). The hearing required under Sec. 104(e) would comply with the procedural requirements of Sec. 111. CDBG recipients are entitled to an opportunity to subject HUD's decisions to the formal hearing procedures that would require administrators to disclose and justify the sanctions to be imposed. No sanctions, including HUD's prior practice of "conditioning" funds to grantees, would be authorized without first providing notice and an opportunity for hearing. The Committee also believes that responsible administration of the CDBG program would be fostered where HUD's actions are subject to review by an independent administrative law judge. An appeal to the U.S. Court of Appeal would remain available, as provided by Section 111.

This provisions also would make consistent the language with respect to available sanction in Sections 104(e) and 111 and would clarify that after compliance with the procedural requirements of Section 111 the authority of the Secretary to impose sanctions is intended to be flexible and may be forborne. Sanctions may be imposed, however, only on annual grants that have not been obligated or no future annual grants. The provision would also clarify that each determination made by the Secretary that the grantee is continuing to fail to satisfy performance standards is subject to Section 111's procedural requirements.

*Research and Development.*—The Committee bill would authorize $21,200,000 for fiscal year 1991, $22,100,000 for fiscal year 1992, and $23,000,000 for fiscal year 1993 for the Department of Housing and Urban Development Research and Development program.

*Fair Housing Initiatives Program.*—The Committee bill would reauthorize the Fair Housing Initiatives at $6,000,000 for fiscal year 1991, $6,258,000 for fiscal year 1992, and $6,527,000 for fiscal year 1993. The Committee bill would also reauthorize the Fair Housing Initiatives Demonstration Program through fiscal year 1993.

## Section-by-Section Analysis

## TITLE I—GENERAL PROVISIONS AND POLICIES

### *Sec. 101—The National Housing Policy*

The Congress affirms the national goal that every American family be able to afford a decent home in a suitable environment.

### *Sec. 102—Objective of National Housing Policy*

The objective is to strengthen a nationwide partnership of public and private institutions that can:

(1) ensure that all residents have either access to decent shelter or assistance in avoiding homelessness;

(2) increase the supply of decent housing that is affordable to low-income and moderate-income families and accessible to job opportunities;

(3) improve housing opportunities for all residents, particularly for disadvantaged minorities;

(4) help make neighborhoods safe and livable;

(5) expand opportunities for homeownership;

(6) provide a reliable, readily available supply of mortgage finance at the lowest possible interest rate; and

(7) encourage tenant empowerment and reduce generational poverty in public and assisted housing.

### *Sec. 103—Purposes*

The purposes of this Act are to:

(1) help families save for a down payment to buy a home;

(2) retain, where feasible, housing affordable to low-income families that was produced for such use with Federal assistance;

(3) extend public and private partnerships that produce and operate housing affordable to low-income and moderate-income families;

(4) expand and improve Federal rental assistance for very low-income families; and

(5) increase the supply of supportive housing and services to allow persons with special needs to live with dignity and independence.

### *Sec. 104—Definitions*

Defines terms used in this Act: units of general local government; State; jurisdiction; participating jurisdiction; nonprofit organization; community housing development organization; government-sponsored mortgage finance agencies (Fannie Mae, Freddie Mac, Farmer Mac); very low-income families (50 percent or less of area median family income, with the Secretary of HUD authorized to adjust all income categories for family size, construction costs, fair market rents, and unusually high or low family incomes); low-income families (80 percent or less of median family income); moderate-income families (100 percent or less of median family income); families (includes single persons age 62 or older, persons with disabilities or displaced persons, the remaining member of a tenant family, and other single persons described by the Secretary); security (the meaning ascribed in the Securities Act of 1933); first-time homebuyer (person who has had no ownership interest in a home during previous 3 years, and displaced homemakers); and Secretary (the Secretary of Housing and Urban Development, unless otherwise specified).

## SUBTITLE A—AFFORDABLE HOUSING STRATEGIES

### *Sec. 105—State and Local Housing Strategies*

(a) *In general.* The Secretary is to provide assistance directly to a jurisdiction only if:

(1) the jurisdiction submits a comprehensive housing affordability strategy;

(2) the jurisdiction annually updates the strategy; and

(3) the Secretary approves the strategies and updates.

The Secretary would establish deadlines and procedures for submitting and approving housing strategies in order to facilitate orderly program management by jurisdictions and provide for timely investment of funds in affordable housing. The Secretary may for good cause extend deadlines on a case-by-case basis.

(b) *Contents.* The strategy would:

(1) describe the jurisdiction's housing needs for the next 5 years by type of income categories needing assistance, by type of tenure, and type of residents—including very low-income, low-income, and moderate-income persons, the elderly, single persons, large families, residents of nonmetropolitan areas and other categories deemed appropriate by the Secretary;

(2) describe the nature and extent of homelessness, estimating the special needs of homeless persons, describing the jurisdiction's strategy for helping very low-income families avoid homelessness and for helping homeless persons find decent shelter and permanent housing;

(3) describe the significant characteristics of the housing market and how these characteristics will affect the use of funds available under this Act for rental assistance, and for new, rehabilitated or existing units;

(4) explain how the cost of housing and incentives to provide affordable housing are affected by public policy, including tax policies, land use controls and growth limits, and the jurisdiction's strategy to remove or ameliorate any negative effects of such policies;

(5) explain the institutional structure through which the jurisdiction wil carry out its housing strategy, the strengths and gaps in that delivery system, and how gaps will be overcome;

(6) indicate how funds available under this Act will leverage additional amounts of private and public resources in the jurisdiction;

(7) set forth plans for appropriate investment of funds available under this Act, and indicate general priorities for allocating these investments geographically and among different activities and housing needs;

(8) describe means of cooperation and coordination among State and local governments in submitting and carrying out their housing strategies;

(9) assess the public housing in its jurisdiction;

(10) describe the standards and procedures for monitoring authorized activities and ensuring long-term compliance with provisions of this Act; and

(11) certify the jurisdiction will affirmatively further fair housing.

The Secretary could permit abbreviated housing strategies to be submitted by jurisdictions that are not otherwise expected to be participating jurisdictions. The information required in an abbreviated housing strategy would be appropriate to the types and amount of assistance the Department is to provide the jurisdiction.

(c) *Approval.*

(1) The Secretary is to approve or reject a jurisdiction's submitted housing strategy within 60 days of receipt, except that during the first 18 months after enactment of this Act, this period may be extended to 90 days. The Secretary may disapprove a housing strategy that is inconsistent with the purposes of this Act or that does not include substantially complete information required under subsection (b). The Secretary would not be permitted to disapprove a housing strategy because of any disagreement with the adoption or continuation of any public policy identified under subsection (b)(4). The intent of Congress under this section is not to reduce or intervene in the ability of States or units of local government to exercise their governing powers, but rather to provide States and units of local government with additional tools and incentives to work in more effective partnership with one another, the Federal Government, and the private sector to provide more affordable housing.

(2) If a housing strategy is rejected, the Secretary has 15 days to tell the jurisdiction in writing the reasons for disapproval and what must be done to meet the criteria for approval. The housing strategy will be considered approved if the Secretary fails to respond within the allowed 15 days.

(3) The jurisdiction will have at least 45 days after the first date of disapproval to amend and resubmit the housing strategy.

(d) *Coordination of State and local housing strategies.* The Secretary would be authorized to establish requirements that encourage a State and the local governments within the State to coordinate their housing strategies. A local government could not be required to have elements of its housing strategy approved by the State.

(e) *Consultation with social service agencies.* When a jurisdiction is preparing a housing strategy, it would have to make reasonable efforts to confer with appropriate social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons and other persons served by such agencies.

(f) *Barrier removal.* The Secretary would report to the Congress any recommendations for legislative and administrative actions to help remove regulations or other requirements that (1) inflate the costs of construction or (2) contribute to economic or racial discrimination.

### *Sec. 106—Certification*

The Secretary may require any application for assistance to contain a certification by an appropriate State or local public official that the proposed activities are consistent with the housing strategy of the jurisdiction.

### *Sec. 107—Citizen Participation*

(a) Before submitting a housing strategy, a jurisdiction would be required to:

(1) give citizens and other interested parties information on the funds that the jurisdiction expects to receive and on the proposed uses of those funds;

(2) publish a proposed housing strategy in a way that gives citizens and other interested parties a reasonable opportunity to examine and comment on the housing strategy;

(3) hold one or more public hearings to receive views on housing needs; and

(4) provide citizens and other interested parties with reasonable access to records regarding any past uses of assistance under this Act.

(b) Before submitting any performance report or any substantial amendment to a housing strategy, a participating jurisdiction would be required to give citizens and other interested parties reasonable notice and opportunity to comment on the report or amendment.

(c) A participating jurisdiction would be required to consider the comments and views of citizens and other interested parties when preparing a final housing strategy, amendment or performance report for submission to the Secretary. A summary of those comments or views would have to be attached when any of these documents are submitted. Any submitted housing strategy, amendment or performance report would have to be made readily available to the public.

(d) The Secretary would have authority to establish in regulation practicable ways to provide a fair hearing and timely resolution of citizen complaints related to housing strategies and performance reports.

### *Sec. 108—Compliance*

(a) *Performance Reports.*

(1) Each participating jurisdiction must submit an annual report indicating the progress the jurisdiction has made in carrying out its housing strategy. The report would include information on the number and types of households served, including the number of very low-income, low-income, and moderate-income persons, and the racial and ethnic status of persons that will be assisted with funds made available under this Act.

(2) The Secretary would set dates for the submission of reports under this subsection and then make appropriate recommendations.

(3) Failure of a jurisdiction to submit a timely and satisfactory report may result in a suspension of assistance until such a report is submitted; or the assistance may be withdrawn or reallocated to others if, after notice and opportunity for a hearing, a satisfactory report still has not been provided.

(b) *Performance review by Secretary.*

(1) The Secretary would be required annually to ensure that activities of each participating jurisdiction are reviewed for compliance with the provisions of this Act. Such review would include an on-site assessment of the participating jurisdiction's: (A) management of funds made available under programs administered by the Secretary, (B) compliance with its housing strategy, (C) accuracy in preparation of its performance reports, and (D) efforts to ensure that housing assisted under programs administered by the Secretary is in compliance with contractual agreements and the requirements of law.

(2) The Secretary's report would be in writing. The jurisdiction would be given 30 days to review and comment on the report. The Secretary's report, with any revisions, and jurisdiction's comments would be made available to the public within 30 days.

(c) *Review by Courts.* Information submitted under subsection (b)(4), the subsection that requires a jurisdiction to describe public policies that have an impact on housing affordability, shall not be reviewable by any court. The authority of a court to review a housing strategy would be limited to determining whether either the housing strategy's content or the process under which the housing strategy was developed is in compliance with the requirements of this Act. While any court action under this limitation is pending, the court shall not have authority to enjoin a jurisdiction from taking actions to implement an approved housing strategy. Any court order resulting from such an action could be only prospective in effect; that is, housing that is assisted during the pendency of such action shall not be subject to any order of the court under this Act. These limitations are intended to permit the use of court review to ensure that activities under this Act comply with the requirements of law but to avoid use of court review to place additional readblocks in the way of Federal, State or local efforts to carry out approved housing strategies and to provide more affordable housing.

### *Sec. 109—Energy Efficiency Standards*

HUD would be required to promulagate energy efficiency standards for new construction of public and assisted housing. The standards would be developed through a task force that includes representatives of homebuilders, housing agencies, energy agencies and building code organizations, energy efficiency organizations, utility organizations and low-income housing organizations. The promulgated standards would need to meet or exceed the provisions of the Model Energy Code of the Council of American Building Officials.

### *Sec. 110—Tax and Housing Coordinating Council*

(a) A Tax and Housing Coordinating Council would be established that consists of the Secretary, the Secretary of the Treasury, the Secretary of Agriculture, and the President's Chief Domestic Policy Advisor.

(b) The Council would advise the Preisdent about the consistency of Federal housing and tax policies, comment on proposed tax legislation, and report to Congress a report on the state of the Nation's housing.

(c) The Council may receive and information necessary from any department or agency of the United States.

### *Sec. 111—Capacity Study*

(a) *In general.* The Secretary would be required to ensure that the department has adequate capacity and resources to carry out it responsibilities.

(b) *Report.* The Secretary would annually report to Congress, beginning 60 days after enactment, the Department's plan to maintain capacity and recommendations of any necessary administrative or legislative action.

## TITLE II—HOMEOWNERSHIP

### *Sec. 201—FHA Ceiling*

Section 203(b)(2) of the National Housing Act is extended until September 30, 1992.

### *Sec. 202—Delegation of Processing*

Section 202 of the National Housing Act would be amended to require the Secretary to provide mortgage insurance for mortgages under sections 202, 221, 223, 232, or 241 that delegates processing functions to selected approved mortgagees. The Secretary would also maintain a viable system for a full insurance program administered by HUD.

### *Sec. 203—Home Equity Conversion Mortgages*

This section would expand the House Equity Conversion Mortgage Insurance Demonstration program by allowing the FHA to insure up to 25,000 mortgages under this section. Participants would be allowed to choose to receive reverse mortgage payments on a monthly basis or as a line of credit.

## TITLE III—INVESTMENT IN AFFORDABLE HOUSING

### *Sec. 301—Short Title*

The Housing Opportunities Partnership (HOP) Act.

### *Sec. 302—Purposes*

This section sets forth eight purposes, all designed to achieve an adequate supply of affordable housing for low-income and moderate-income persons by enhancing capacity of State and local governments and promoting public-private partnerships.

### *Sec. 303—Coordinated Federal Support for Housing Strategies*

The Secretary would be required to provide housing assistance to jurisdictions in as coordinated a manner as possible.

### *Sec. 304—Establishment of Housing Opportunities Partnership Advisory Board*

This section would create an 18 member advisory board to review the activities and general policies of the HOP and to provide advice to the Secretary. Members would be individuals with expertise and broad experience related to the purposes of the HOP. The Secretary of HUD would appoint 10 members, 8 members would be appointed by the Congress. At least 3 members would come from the private sector, 2 members from State government, 2 members from local governments, 3 members from representatives of low-income tenants, and 3 members from non-profit housing developers. The advisory Board would have prompt access to relevant information and would submit an annual report with any minority views to the Secretary and Congress.

### *Sec. 305—Authorization*

This section would authorize $2 billion for fiscal year 1991, $2.5 billion for fiscal year 1992, and $3 billion for fiscal year 1993, of which $25 million for fiscal year 1991, $25 million for fiscal year 1992, and $25 million for fiscal year 1993 would be earmarked for activities authorized under subtitle C (Other Support for State and local Housing Strategies).

### *Sec. 306—Notice*

The Secretary would publish notice in the Federal Register that establish standards to implement this title.

## SUBTITLE A—HOUSING OPPORTUNITY PARTNERSHIPS (HOP)

### *Sec. 311—Authority*

This section would authorize HUD to make funds available to participating jurisdictions for investment to expand the supply of affordable housing.

### *Sec. 312—Eligible Uses of Investment*

(a) *Housing Uses.* Subsection (a) would permit participating jurisdictions to use their funds to improve rental and homeownership affordability through the acquisition, construction, reconstruction, or moderate or substantial rehabilitation, including real property acquisition, site improvement, conversion, demolition, and other expenses, including relocation expenses for displaced persons and organizations. Subsection (a) would require participating jurisdictions to give preference to the rehabilitation of substandard housing where that is the most cost effective way to meet the jurisdiction's need for affordable housing.

(b) *Investments.* Subsection (b) would give participating jurisdictions (1) discretion to invest their funds as equity investments, interest-bearing loans, non-interest-bearing loans or advances, interest subsidies, or other forms of assistance; and (2) the right to establish the terms of assistance.

(c) *Prohibited Uses.* This section would prohibit use of funds for:

(1) administrative costs of a participating jurisdiction;

(2) direct rental assistance to tenants;

(3) public housing operating subsides;

(4) public housing modernization; or

(5) assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987.

(d) *Manufacturered housing.* The term "housing" shall include manufactured housing and manufactured housing lots.

### *Sec. 313—Development of Model Programs*

The Secretary would be required to—

(1) develop, test, evaluate, refine and, as necessary, replace model programs in cooperation with participating jurisdictions, government-sponsored mortgage finance agencies, housing organizations, the private sector, and others;

(2) make available alternative model programs to participating jurisdictions;

(3) assure the availability of a variety of model programs designed for differing local circumstances;

(4) negotiate and execute agreements with Federal agencies, participating jurisdictions, private financial institutions, government-sponsored mortgage finance agencies, nonprofits, and others to provide necessary services, products, or financing for the implementation of a model program;

(5) provide information on model programs to interested parties; and

(6) encourage the use of model programs to achieve program efficiency, economies of scale, and effective use of public resources.

Section 313 would give each participating jurisdiction, except as provided in section 324(2) (Penalties for Misuse of Funds), discretion to adopt, adapt, and design model programs.

### *Sec. 314—Income Targeting*

Section 314 would require each participating jurisdiction to invest its funds within each fiscal year so that—

(1) at least 50 percent would be invested in dwelling units occupied by very low-income families at the time of initial occupancy or when the funds are invested, whichever is later;

(2) at least 80 percent (including the funds in paragraph (1)), would be invested in units occupied by low-income families; and

(3) all funds are invested in affordable housing as defined in section 315.

### *Sec. 315—Qualification as Affordable Housing*

(a) *Rental Housing.*

(1) *Qualification.* Paragraph (1) would define rental housing as affordable only if it—

(A) bears rents not greater than the lesser of (i) the existing section 8 fair market rents in the area or (ii) a rent that does not exceed 30 percent of the adjusted income of a family at 65 percent of the area median income, except that the Secretary may provide a ceiling above or below 65 percent of the area median if that is justified by local construction costs, rent levels, or family incomes that are unusually high or low;

(B) has at least 20 percent of the units (i) occupied by very low-income families who pay not more than 30 percent of adjusted income for rent, or (ii) bearing rents not greater than the gross rent permitted for rent-restricted units under section 42(g)(2) of the Internal Revenue Code (the Low-income Housing Tax Credit);

(C) is occupied only by low-income families;

(D) is not refused to a tenant because of participation in the section 8 rental credit, voucher, or certificate programs;

(E) will remain affordable for its remaining useful life or such other period as HUD determines is the longest feasible period; and

(F) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109.

(2) *Adjustment of Qualifying Rent.* Paragraph (2) would permit the Secretary to adjust the qualifying rent established for a project under paragraph (1)(A) if the Secretary finds that the adjustment is needed to continue the financial viability of the project.

(3) *Increases in Tenant Income.* Housing would qualify as affordable despite temporary noncompliance with paragraph (1)(B) or (C) if the noncompliance were caused by existing tenants' increased incomes and HUD were satisfied that actions were being taken to fill all vacancies in conformance with paragraph (1) until noncompliance is corrected. Tenants who no longer qualified as low-income would be required to pay at least 30 percent of their adjusted monthly income.

(4) *Mixed-Income Project.* Housing that accounts for less than 100 percent of the units in a project would qualify as affordable if it met the section 315 criteria.

(5) *Mixed-Use Project.* Housing in a project that is designed in part for nonresidential uses would qualify as affordable if the housing met the criteria of section 315.

(b) *Homeownership.* Housing that is for homeownership would qualify as affordable only if it—

(1) has an initial purchase price that does not exceed 95 percent of the area median purchase price;

(2) is the principal residence of an owner whose family is moderate-income at the time of purchase;

(3) provides ownership opportunities to families with a broad range of incomes below the area median, with a preponderance of low-income families;

(4) is available for initial purchase only to first-time homebuyers; and

(5) is available for subsequent purchase (A) as a principal residence only for an owner whose family is moderate-income, and (B) at a price consistent with guidelines that are established by the participating jurisdiction and determined by the Secretary to be appropriate to provide owners with a fair return on investment and to ensure that the housing remains affordable to a reasonable range of moderate-income homebuyers.

### *Sec. 316—Participation by States and Local Governments*

HUD would designate a State or unit of general local government as a participating jurisdiction when it complies with HUD procedures, which would have to provide the following:

(1) *Allocation.* Within 20 days after funds become available (or during the first year, within 20 days after the later of the date (A) funds are appropriated, or (B) regulations are promulgated), HUD would be required to allocate funds in accordance with section 317 and notify each jurisdiction of its allocation amount. If a jurisdiction is not already a participating jurisdiction, HUD would be required to tell it how to become one.

(2) *Eligibility.* A jurisdiction receiving a formula allocation could become a participating jurisdiction if its allocation is $2 million or more, or if

(A) HUD finds that—

(i) the jurisdiction is the city with the largest population in a metropolitan area, has a PHA, and is able to implement subtitle A, and

(ii) the State has authorized HUD to transfer to the jurisdiction a part of the State's allocation that is equal to or greater than the difference between the jurisdiction's allocation and $2 million, or the State or the jurisdiction provide an equal amount from their own resources; or

(B) geographically contiguous units of general local government have formed a consortium meeting specified criteria.

(C) If a jurisdiction has met the requirements of subparagraph (A), its allocation for a fiscal year would subsequently be the sum of its allocation and the amount made available to the jurisdiction under subparagraph (A)(ii). The formula allocation for a consortium that has met the subparagraph (B) requirements would equal the total of its members' allocations.

(3) *Notification.* If an eligible jurisdiction notifies HUD, within 30 days, that it wants to become a participating jurisdiction, HUD would reserve an amount equal to that jurisdiction's allocation (plus any reallocations for which the jurisdiction is eligible). If HUD later determines that the jurisdiction will not meet the requirements within a reasonable period of time, HUD would reallocate the reserved funds.

(4) *Submission of Strategy.* An eligible jurisdiction would be required to submit to HUD a comprehensive housing affordability strategy in accordance with section 105 within 90 days after providing notification under paragraph (3).

(5) *Reallocation.* If HUD determines that a jurisdiction has not met the requirements of paragraphs (2)-(4), or if HUD, after providing for amendments and resubmissions, disapproves the jurisdiction's housing strategy, HUD would reallocate any reserved funds, as follows:

(A) *State.* If a State has not met the requirements, HUD would:

(i) make the State funds available by incentive allocation among applications submitted by that State's local governments or consortia that include such units, insofar as HUD receives approvable applications within 12 months, and

(ii) reallocate any remaining amounts under section 317(d).

(B) *Local.* If a local government has not met the requirements, HUD would reallocate its funds to the State if the State is a participating jurisdiction.

(C) *Direct Reallocation.* If the local government is in a State that is not a participating jurisdiction, HUD would:

(i) make the funds reserved available for use within the State by incentive allocation among local governments and community housing development organizations, insofar as HUD receives approvable applications within 12 months, with priority for applications within the locality or its immediate vicinity, and

(ii) reallocate any remaining amounts under section 317(d).

(D) *Certain Jurisdictions Deemed to Be Participating Jurisdictions.* If a State or local government meets the requirements of paragraphs (2)-(4), it would be deemed a participating jurisdiction for purposes of reallocation.

(6) *Designation.* HUD would be required to designate an eligible jurisdiction to be a participating jurisdiction as soon as its housing strategy is approved under section 105.

(7) *Continuous Designation.* Once a State or local government is designated a participating jurisdiction, it would remain so, unless its designation were revoked. Paragraphs (2)-(5) would not apply.

(8) *Revocation.* HUD could revoke a jurisdiction's designation as a participating jurisdiction if—

(A) HUD funds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out this title, or

(B) the jurisdiction's allocation falls below $2 million for three consecutive years, below $1.75 million for two consecutive years, or below $1.5 million in any one year.

In the case of revocation, any remaining amounts in the jurisdiction's housing investment trust fund (HITF) would be reallocated under section 317(d).

### *Sec. 317—Allocation of Resources*

(a) *In General.*

(1) After reserving amounts under paragraph (2), HUD would allocate appropriated funds among participating jurisdictions as follows:

(A) 80 percent would be allocated according to the subsection (b) formula. During fiscal year 1991 and fiscal year 1992, 60% of this amount would go to local governments and 40% would go to States. During subsequent fiscal years, the percentage to be allocated among local governments and the percentage to be allocated among States would be determined according to subsection (e).

(B) 20 percent would be allocated according to the subsection (c) incentive allocation.

(C) The Secretary would set aside a portion of HOP funds equal to fiscal year 1990 appropriations for programs terminated under this bill—and would distribute them between states and local governments in the same proportion as was done under the terminated programs.

(2) 1% of the funds appropriated under this subtitle would be set aside for grants to Indian tribes. The Secretary would allocate such funds through a competition based on criteria published in the Federal Register.

(b) *Formula Allocation.*

(1) *In General.* HUD would establish an allocation formula that reflects each jurisdiction's relative need for an increased supply of affordable housing for low-income and moderate-income families, as identifeid by objective measures of housing market tightness, inadequate housing, poverty, and housing production costs.

(2) *Minimum State Allocation.*

(A) If this formula would allocate less than $3 million to any State, the State would receive $3 million, and the increase would be deducted pro rata from other States' allocations.

(B) If no local government within a State is eligible to become a participating jurisdiction under section 316(2), the State's allocation would be increased by $1.5 million. Priority for use of such additional allocation would go to housing in cities within the State that have the largest population in a metropolitan area. The increase would be deducted pro rata from local government allocations.

(3) *Minimum Local Allocation.* Only local governments with allocations of at least $1.5 million would get an allocation.

(4) *Maximum Allocations.* No State could be allocated more than 15 percent of the total allocated among States, and no unit of general local government could be allocated more than 15 percent of the total allocated among local governments.

(c) *Incentive Allocation.* HUD would make an incentive allocation among participating jurisdictions. A jurisdiction would be eligible only if it demonstrates to HUD that it is engaged, or has made good faith efforts to engage, in cooperative efforts between the State and participating jurisdictions in the State to develop, coordinate, and implement housing strategies under this title. HUD would established selection criteria that take into account—

(1) the applicants commitment to expand the supply of affordable housing through actions that—

(A) direct funds to benefit very low-income families with a range of very low incomes in amounts that exceed the income targeting requirements of section 314, with extra consideration given for activities that benefit families with incomes below 30 percent of the area median;

(B) provide matching resources beyond that required under section 320; and

(C) stimulate a high degree of private sector investment and participation in development, including that of community housing development organizations;

(2) the degree to which the applilcant is pursuing policies that

(A) make existing housing more affordable;

(B) preserve the affordable supply that is vulnerable to conversion of loss;

(C) increase the supply of housing that is affordable to very low-income, low-income, and moderate-income persons, especially in area near expanding job opportunities; and

(D) remedy the effects of discrimination and improve housing opportunities for minorities; and

(3) the degree to which the applicant needs an allocation to carry out its approved housing strategy that HUD determines will—

(A) serve as a national model,
(B) demonstrate new methods,
(C) ease a severe regional shortage, or
(D) respond to particularly difficult housing problems.

A jurisdiction could not receive an incentive allocation that is larger than its formula allocation.

(d) *Reallocations:*

(1) *In general.* HUD would reallocate amounts periodically throughout each fiscal year. Participating jurisdictions and those meeting the requirements of sections 316(2)–(4) would be eligible.

(2) *Commitments.* HUD would establish procedures according to which participating jurisdictions could make commitments to invest funds. Funds that HUD determines are needed to fulfill binding commitments would not be available for reallocation.

(3) *Limitation.* Unless otherwise specified in subtitle (A), reallocated State funds could only go to participating States, and reallocated local government funds could only go to participating local governments.

(e) *Review of allocation percentage.*

(1) *In general.* The Secretary would contract for an annual independent study of the participation of States and localities to determine the appropriate percentage under the formula allocation. The study would consider the number of participating jurisdictions, the level of income targeting and matching requirements exceeded.

(2) *Recommendations.* The Secretary would make recommendations to Congress based on the report and consultation with the HOP advisory board.

(3) *Continuity.* Jurisdictions would receive the same allocation as the previous year if not otherwise specified in statute prior to the beginning of the year.

### *Sec. 318—Housing Investment Trust Funds*

(a) *Establishment.* The Secretary would establish for each participating jurisdiction a housing investment trust fund (HITF), an account to be used to invest in affordable housing within the jurisdiction's boundaries.

(b) *Line of Credit.* The Secretary would establish a line of credit in the HITF of each participating jurisdiction, which would include (1) funds allocated or reallocated to the participating jurisdiction under section 317, and (2) any payment or repayment under section 319.

(c) *Reductions.* A participating jurisdiction's line of credit would be reduced by (1) funds drawn from the HITF, (2) funds expiring under subsection (g), and (3) any penalties assessed by HUD under section 324.

(d) *Certification.* A participating jurisdiction could draw funds from its HITF up to the remaining line of credit only after the participating jurisdiction provided certification satisfactory to HUD that the funds would be used pursuant to the participating jurisdiction's approved housing strategy and in compliance with title III.

(e) *Investment Within 15 Days.* The participating jurisdiction would invest funds drawn from its HITF, together with interest earned, in affordable housing within 15 days.

(f) *No Interest or Fees.* The Secretary could not charge interest, levy, or any other fee with regard to funds in an HITF.

(g) *Expiration of Right to Draw Funds.* A participating jurisdiction's right to draw funds from its HITF would expire if the funds are not placed under binding commitment within 24 months. The Secretary would reduce the line of credit by the expiring amount and reallocate the amounts by formula in accordance with section 317(d).

(h) *Administrative Provision.* The Secretary would keep each participating jurisdiction informed of the status of its HITF, including the status of amounts under various stages of commitment.

*Sec. 319—Repayment of Investment*

(a) *In General.* Any repayment of funds drawn from an HITF, plus any interest or other return on investment, would be deposited in the HITF, except that if the jurisdiction is no longer a participating jurisdiction, the amounts would be reallocated by formula in accordance with section 317(d).

(b) *Assurance of Repayment.* Each participating jurisdiction would assure that the funds invested are repayable when the housing no longer qualifies as affordable. Repayments would be deposited in the jurisdiction's HITF, except that if that jurisdiction is no longer a participating jurisdiction, the repayment would be reallocated by formula.

(c) *Availability.* Any funds deposited into a jurisdiction's HITF as a result of such repayment shall be immediately available to the jurisdiction for investment in accordance with the provisions of this subtitle. The Secretary would be authorized to establish separate non-federal HITF accounts if that is necessary to carry out the previous sentence.

*Sec. 320—Matching Requirements*

(a) *Contribution.* Each participating jurisdiction would contribute to affordable housing at least 25 percent of the total funds drawn from its HITF in any fiscal year. Such contributions would have to be in addition to any amounts that a participating jurisdiction makes available to meet the requirements of section 316(2)(A)(ii), which are contributions that certain jurisdictions may have to make to become participating jurisdictions.

(b) *Recognition.*

(1) A jurisdiction's contribution would be recognized only if it is made with regard to—

(A) qualified affordable housing, or

(B) any portion of a project at least 50 percent of whose units qualify as affordable housing.

(2) Contributions for administrative expenses shall be recognized only up to 7 percent of funds provided for investment under title III.

(c) *Form.* Contributions could be in the form of—

(1) cash contributions from non-Federal resources; CDBG grant funds are specifically excluded as a cash contribution;

(2) expenditures from non-Federal resources for administrative expenses, as defined by the Secretary; CDBG grant funds may be used for this purpose;

(3) the value of taxes, fees and other charges normally imposed that are waived, foregone or deferred so as to achieve affordability of housing;

(4) the value of land or other realty;

(5) the value of sweat equity invested;

(6) the value of investment in on-site and off-site infrastructure that is needed to provide affordable housing assisted under this subtitle; or

(7) other HUD-approved in-kind contributions.

(d) *Reduction of Requirement.* HUD could reduce the matching requirement for up to three years after a jurisdiction is first designated a participating jurisdiction if the participating jurisdiction demonstrates to HUD that the reduction is necessary. The reduction would be limited to 75 percent in the first year, 50 percent in the second year, and 25 percent in the third year.

### *Sec. 321—Private-Public Partnership*

Each participating jurisdiction would be required to maximize participation by the private sector, including nonprofit and for-profit enterprises. This requirement would not preclude public housing authorities from carrying out a jurisdiction's housing strategy.

### *Sec. 322—Distribution of Assistance*

(a) *Local.* Each participating local government would distribute assistance geographically and among different categories of housing need, according to priorities identified in its approved housing strategy.

(b) *State.* Each participating State would distribute assistance according to its assessment of the geographical distribution of housing needs, as identified in its approved housing strategy. Each State would have explicit responsibility to ensure that assistance is distributed to rural areas in amounts that reflect the size of the rural population and objective measures of rural housing need, such as poverty and substandard housing. States and participating local governments would coordinate activities within local jurisdictions.

### *Sec. 323—Set-aside for Community Housing Development Organization*

(a) *In General.* Each participating jurisdiction would reserve at least 10 percent of its funds for investment in housing developed, sponsored, or owned by community housing development organizations. Following the third year after a jurisdiction first becomes a participating jurisdiction, the nonprofit reservation shall increase to 15 percent, unless the jurisdiction annually demonstrates to the satisfaction of the Secretary that such amounts cannot be used effectively by community housing development organizations. Each participating jurisdiction shall make reasonable efforts to identify community housing development organizations that are able to carry out elements of the housing strategy and shall encourage development organizations to do so.

(b) *Recapture and Reuse.* If funds reserved for community housing development organizations remained uninvested for 18 months and the jurisdiction demonstrated to HUD that it made the reservation but the funds could not be used effectively, the jurisdiction could invest up to 50 percent of the unused money over the following 12 months. JUD would be required to make the remainder of the funds available to community housing development organizations by incentive allocation with preference going to community housing development organizations serving the jurisdiction.

(c) *Recapture and Deduction.* Where funds reserved for community housing development organizations have not been invested for 18 months and the jurisdiction has failed to show that it complied with subsection (a), the Secretary would deduct funds from the participating jurisdiction's line of credit in the HITF and make them available by incentive allocation among community housing development organizations, with preference to those within the boundaries of the jurisdiction.

(d) *Incentive Allocation Criteria.* To the extent practicable, section 317(c) incentive allocation criteria would be used in making incentive allocations under section 323.

### *Sec. 324—Penalties for Misuse of Funds*

The Secretary Corporation would reduce a jurisdiction's HITF if HUD found, after reasonable notice and opportunity for a hearing, that the participating jurisdiction failed to comply substantially with any provision of subtitle A. The reduction would be by the amount of expenditures that were not in compliance, and would last until the termination of the noncompliance. HUD could—

(1) prevent withdrawals from a jurisdiction's HITF for activities affected by the noncompliance;

(2) restrict the jurisdiction's activities to those that conform to a model program established under section 313; or

(3) exclude the jurisdiction from allocations or reallocations.

### *Sec. 325—Limitation on Jurisdictions under Court Order*

If a participating jurisdiction is adjudicated, by a Federal, State, or local court, to be in violation of title VI of the 1964 Civil Rights Act, the Fair Housing Act, or any other Federal, State, or local fair housing or anti-discrimination law, or if a settlement has been entered into with respect to claims of such violations, the Secretary would be required to ensure that the participating jurisdiction uses its funds only to carry out housing remedies required by the judgment or settlement, other than the fines or penalties, until HUD is satisfied that all housing remedies have been carried out.

### *Sec. 326—Tenant and Participant Protections*

(a) *Lease.*

(1) A lease on affordable rental housing assisted under this title would have to be for at least a one-year term and contain terms and conditions that the Secretary considers appropriate.

(2) Each lease would have to provide that the tenant, any member of the tenant's houshold, or a guest or other person under the tenant's control does not engage in any activity that adversely affects the health, safety or right to quiet enjoyment of the premises of other tenants, and shall not engage in criminal activity, including drug related criminal activity, that threatens the health, safety or right to quiet enjoyment of the premises of other tenants, and such criminal activity shall be cause for termination of tenancy.

(b) *Termination of tenancy.* Owners would be able to terminate tenancy or refuse to renew a lease only for good cause, including serious or repeated violation of the lease, or violation of law.

(c) *Maintenance and replacement.* Owners would be required to maintain rental housing assisted under this title in compliance with all housing quality standards and codes.

(d) *Tenant selection.* Owners would be required to adopt written tenant selection policies and criteria that are (1) consistent with the purpose of providing housing for very low-income and low-income families, and (2) reasonably related to program eligibility and the applicant's ability to comply with the lease terms. Tenants would be selected from a written waiting list in chronological order. Any rejected applicant would have to be notified promptly of the grounds for the rejection and be given an informal hearing upon request.

### *Sec. 327—Monitoring of Compliance*

(a) *Enforcement agreements.* Each participating jurisdiction would be required to ensure long-term compliance with the provisions of this title, through binding contracts and otherwise. The provisions of the agreements would have to be enforceable by the jurisdiction or by intended beneficiaries, and they would have to provide for remedies in the event that requirements of the agreements are breached. (b) *Periodic monitoring.* Each participating jurisdiction would be required annually to monitor rental housing assisted under this title to assess compliance with the requirements of law. The results of the review would be included in the jurisdiction's performance report submitted under section 108(a) and made available to the public.

### *Sec. 328—Transition Rule for Rental Rehabilitation Program*

The Secretary would set aside the same funding that was appropriated in fiscal year 1990 for the continuation of the rental rehabilitation program during fiscal year 1991 and 1992.

## SUBTITLE B—MORTGAGE CREDIT ENHANCEMENT

### *Sec. 331—Establishment of Commission on Credit Enhancement*

The Secretary would conduct a study to determine the most efficient ways to finance the housing strategies of participating jurisdictions. The Secretary would draw on a wide range of organizations to develop this report.

### *Sec. 332—Composition of the Commission*

(a) *Appointments.* The commission would be composed of 15 members of whom the Secretary would appoint 5, the Senate Subcommittee on Housing and Urban Affairs would appoint 5, and the House Subcommittee on Housing and Community Development would appoint 5.

(b) *Qualifications.* The commission would be equally represented by persons in the private sector, state government, local government, representing the interests of low income tenants, and nonprofit development.

(c) *Political affiliation.* Not more than 8 members would be from one political party.

(d) *Report.* The commission would submit a report to the Secretary and to Congress recommending legislative and administrative actions. The study would include—

(1) the need for the Secretary or other agency to provide credit enhancement for affordable housing; and

(2) alternative ways (A) the Secretary could provide one-stop credit enhancement in coordination with other forms of assistance; (B) HUD or other federal agency could assist in financing mortgages on affordable housing by developing standardized mortgage-backed securities; (C) to better use the capacities of existing government sponsored mortgage corporations to provide affordable housing; and (D) the interests and risks of loss could be protected through stronger financial requirements.

(e) *Administration.* The commission would meet in Washington, D.C. as requested by the Secretary or approved by the members. The commission would select its officers and adopt administrative procedures.

(f) *Compensation.* Members of the commission may be compensated and reimbursed from the Department for traveling expenses.

## SUBTITLE C—OTHER SUPPORT FOR STATE AND LOCAL HOUSING STRATEGIES

### *Sec. 351—Authority*

The Secretary, through contracts, is to develop the capacity of participating jurisdictions, State and local housing finance agencies, nonprofit organizations, and for-profit corporations, working in partnership, to identify and meet needs for an increased supply of decent, affordable housing.

### *Sec. 352—Priorities for Capacity Development*

The Secretary is to provide assistance to:

(1) help with the exchange of information between and among participating jurisdictions, including information on program design, housing finance, land use controls, and building construction techniques;

(2) improve the ability of States and units of general local government to design and implement comprehensive housing affordability strategies;

(3) enhance the ability of community housing development organizations to maintain, rehabilitate or construct housing for low-income and moderate-income families;

(4) encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships;

(5) increase the investment of private capital in housing for very low-income families, particiularly through benevolent loan funds;

(6) support locally initiated efforts to establish privately owned, local community development banks and credit unions to finance affordable housing; and

(7) improve the ability of States and units of general local government, community housing development corporations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing.

*Sec. 353—Conditions of Contract*

(a) *Eligible Organizations.* The Secretary would carry out its objectives through contract with:

(1) a participating jurisdiction or agency;

(2) a public purpose organization established by State or local legislation and responsible to the chief elected official of a participating juridiction;

(3) an agency or authority established by two or more participating jurisdictions;

(4) a national or regional nonprofit organization with a membership comprised largely of entities or their officials that qualify under paragraph (1), (2), or (3); or

(5) a nonprofit organization that (A) customarily provides services related to low-income and moderate-income housing in more than one State, (B) has demonstrated experience in providing a range of assistance to community housing development organizations, including financing, grants, technical assistance, management assistance and training, and (C) and has demonstrated ability to provide technical assistance and training for local developers of affordable housing.

(b) *Contract terms.* Contracts could not be for more than 3 years and could not provide more than 20 percent of the orgnaization's operating budget in any one year. Contracts with any one organization during any fiscal year could not be for more than 20 percent of the funds appropriated under this subtitle during that fiscal year.

(c) *Matching requirement for technical assistance.*

(1) In general, the Secretary would be able to enter into contracts under section 352(3) (technical assistance for community housing development organizations) to cover no more than 50 percent of the projected costs of preparing a project application and bringing the project through to application approval. The Secretary would have authority to determine what costs are appropriately related to the provision of affordable housing.

(2) Federal funds used for technical assistance for community housing development organizations could be used only for project preparation costs that the Secretary determines to be customary and reasonable costs incurred during the project preparation phase of development, including but not limited to costs of: (A) assessment of market and financial feasibility; (B) engagement of a development team; (C) preliminary design and

engineering costs; (D) site control and title clearance; (E) cost estimation; and (F) professional services related to development of the housing.

(3) An organization entering into a contract under section 352(3) would be required to contribute the other 50 percent of the project preparation costs from non-federal sources. Contributions would be recognized for the match if they were for costs eligible under paragraph (2) or for the project preparation costs acceptable to the Secretary, including costs of identifying, screening and counseling prospective residents of the housing, as well as ongoing costs of administration and planning that are directly related to the project application or to the provision of affordable housing in the area to be served by the project.

(4) The Secretary would be required to take into account assistance that has been provided under section 352(3) when deciding the appropriate levels of other assistance to provide to the projecct.

### *Sec. 354—Research in Housing Affordability*

The Secretary would support research and publish reports that will further an understanding of ways to provide more affordable housing and that will help achieve the purposes of this title. These activities would be carried out through contract with federal agencies, government-sponsored mortgage finance agencies, and qualified research organizations.

## SUBTITLE D—SPECIFIED MODEL PROGRAMS

### *Sec. 361—In General*

The Secretary would make certain model programs available to participating jurisdictions.

### *Sec. 362—Rental Rehabilitation*

The Secretary would make available a model program that generally conforms to the rental rehabilitation program under the Housing Act of 1937. The amount of subsidy could not exceed 50% of the rehabilitation costs. Owners would agree not to discriminate against tenants who might receive housing assistance for at least 10 years.

### *Sec. 363—Rehabilitation Loans*

The Secretary would make available a model program that generally conforms to the rental rehabilitation program under the Housing Act of 1964 which provides loans to rehabilitate residential properties. The Secretary would establish the terms and conditions of the loans so that they are acceptable credit risks. Guidelines for the program could consider the location and use of the property, and its need for rehabilitation.

### *Sec. 364—Sweat Equity Model Program*

The Secretary would make available grants to provide technical assistance to low and very low income families who want to acquire, rehabilitate, or construct housing by the self-help method.

The program would target for rehabilitation government owned properties. The labor of eligible families would be used in exchange for acquisition of the property or rent payments.

### SUBTITLE E—GENERAL PROVISIONS

*Sec. 381—Nondiscrimination*

Discrimination is prohibited on the basis of race, color, national origin or sex in programs or activities funded in whole or part under this title. Prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, 42 U.S.C. § 6101-6107, and handicap under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, are also applicable to activities under this title.

*Sec. 382—Annual Audits and Accountability*

The Secretary would be required to provide annually for a full audit of the financial statements of the Housing Opportunity Partnerships program by an independent accounting firm. The audit would have to comply with generally accepted government auditing standards and would have to be performed as soon as practicable after the close of each fiscal year. The accounting firm's report would promptly be submitted to Congress and published. Performance of an independent audit would be in lieu of the GAO audit required in law.

(b) *Audits by the Comptroller General.*

(1) *Audits of the Housing Opportunity Partnerships program.* When the Comptroller General deems it to be appropriate or is requested by the Senate or House Banking Committee, the GAO would be required to perform a full financial audit of the HOP program financial records. The initiation of a GAO financial audit would eliminate the requirement for an independent audit under subsection (a). The GAO report would have to be submitted to the Secretary and the Congress, and published.

(2) *Audits of recipients.* Financial transactions of participating jurisdictions and other recipients of funds under this title may be audited by the General Accounting Office, and for such purpose GAO shall have access to all accounts, records, papers, and other property of such recipients necessary to conduct audits.

*Sec. 383—Uniform Record Keeping and Reports to the Congress*

(a) The Secretary shall set forth uniform record keeping, performance reporting, and audit requirements for participating jurisdictions.

(b) The Secretary shall submit an annual report to Congress, not later than 120 days after the end of each fiscal year.

*Sec. 384—Citizen Participation*

The Secretary shall ensure that jurisdictions that are or seek to become participating jurisdictions comply with the requirements of section 105(i) (participation by citizens, public agencies and other interested parties).

### *Sec. 385—Labor*

Davis-Bacon wage requirements would apply at a threshold of construction of 12 or more units. The Secretary may waive Davis-Bacon wage requirements where employment services are partially or wholly donated and the entity undertaking the construction is fully credited with the amounts thereby saved.

### *Sec. 386—Interstate Agreements*

Congressional consent is authorized in advance for interstate agreements, not in conflict with any Federal law, in support of activities under this title.

### *Sec. 387—Interstate Agreements*

Congressional consent is authorized in advance for interstate agreements, not in conflict with any Federal law, in support of activities under this title.

### *Sec. 387—Environmental Review*

(a) The Secretary may, by regulation, allow participating jurisdictions to assume environmental review responsibilities equal to existing federal standards. The Secretary's regulations shall be issued after consultation with the Council on Environmental Quality.

(b) At least 15 days prior to the Secretary's approval of a jurisdiction's assumption of environmental review responsibilities the jurisdiction shall have submitted a certification meeting the requirements of subsection (c). The Secretary's approval of such certification shall satisfy his responsibilities under the National Environmental Policy Act of 1989 with respect to the release of funds under this title.

(c) A certification authorized by this section shall comply with the Secretary's specifications, be executed by an appropriate officer of the recipient of assistance, state that the recipient has carried out all responsibilities under this title, and state that the certifying officer consents to assume NEPA responsibilities and Federal court jurisdiction for the purpose of carrying out such responsibilities.

(b) Where a State assumes the responsibilities set forth in subsection (b) the performance by the State of such review actions shall be deemed to satisfy the Secretary's responsibilities under NEPA.

## TITLE IV—HOPE GRANTS

### SUBTITLE A—HOPE GRANTS FOR PUBLIC AND INDIAN HOMEOWNERSHIP

### *Sec. 401—HOPE for Public and Indian Housing Ownership*

The United States Housing Act of 1937 would be amended by adding the following new title:

*Sec. 301—Authority.*

(a) *Program authority.* The Secretary would be authorized to make planning grants to develop homeownership programs and implementation grants to carry out these programs.

(b) *Authority to reserve housing assistance.* The Secretary would be authorized to reserve certificate and housing voucher assistance for use in homeownership programs to provide rental assistance for non-purchasing tenants.

(c) *Authorization.* Amounts of $50 million for fiscal year 1991, $75 million for fiscal year 1992, and $100 million for fiscal year 1993 would be authorized for HOPE funding for planning grants and implementation grants. Not more than $2 million per year could be appropriated for planning grants.

*Sec. 302—Planning Grants.*

(a) *Grants.* The Secretary would be authorized to make planning grants to develop homeownership programs.

(b) *Eligible activities.* Grants could be used for:

(1) development of resident management corporations and resident councils;

(2) training and technical assistance for applicants;

(3) development of homeownership programs;

(4) preliminary architectural and engineering work;

(5) tenant and homebuyer counseling and training;

(6) planning for economic development, job training, and self-sufficiency activities;

(7) development of security plans; and

(8) actual preparation of the application.

(c) *Application.* Applicants would be required to submit applications for planning grants which contain at a minimum:

(A) a certification that the proposed activities are consistent with a housing affordability strategy;

(B) a request for the grant;

(C) a description of the applicant and its qualifications;

(D) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing;

(E) a description of the project under consideration for purchase, and a description of the tenants.

(d) *Selection criteria.* The Secretary would establish selection criteria for a national competition which would include:

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in a homeownership program;

(3) the potential for developing an affordable homeownership program and the suitability of the project for homeownership;

(4) other factors which the Secretary determines to be appropriate.

(e) *Limitation on planning grants.* Assistance to any public housing project under this section would be limited to $100,000.

*Sec. 303—Implementation Grants.*

(a) *Grants.* The Secretary would be authorized to make implementation grants to carry out homeownership programs.

(b) *Eligible Activities.* Implementation grants could be used for the following eligible activities:

(1) architectural and engineering work;

(2) acquisition of the project;

(3) rehabilitation;

(4) administrative costs;

(5) legal fees;

(6) counseling and training;
(7) training;
(8) relocation of tenants;
(9) temporary relocation of tenants during rehabilitation;
(10) economic development activities;
(11) operating and replacement reserves for the project;
(12) implementation of the replacement housing plan.

(c) *Matching funding.* Applicants would be required to contribute not less than 25 percent of the grant amount from non-federal sources which may include: most cash contributions; administrative expenses; the value of taxes, fees, or other charges normally imposed; the value of land or other real property; the value of on-site or off-site infrastructure; other in-kind contributions as the Secretary may approve.

(d) *Application.* Applicants would submit applications for implementation grants according to procedures established by HUD. At a minimum, the application would be required to contain:

(A) a certification that the proposed activities are consistent with the housing strategy under section 105 of this Act and that the matching funds shall be provided;

(B) a request for and the amount of the grant; if section 9 assistance is needed, an application for that assistance, including proposed uses of this assistance, the length of the assistance period, and an economic self-sufficiency plan specifying an estimated target date to phase-out the use of this assistance by homeowners in the project;

(C) a description of the proposed homeownership program, specifying proposed activities and their costs and a schedule for carrying them out, and a demonstration that the program would be affordable to eligible families;

(D) identification of the project to be sold and a description of the composition of its tenants;

(E) a plan for giving tenants an opportunity to become owners by identifying the price, the factors influencing the price, a comparison to appraised value, the underwriting standard to be used, financing arrangements, and schedule of sale;

(F) a description of the resources that would be used for the matching funding;

(G) identification of the financing proposed;

(H) the sales price and terms of the sale to the applicant;

(I) a description of the entity that will operate and manage the property;

(J) any proposed restrictions on the resale of the units;

(K) a plan for (i) selecting families to participate in the program, (ii) providing relocation assistance to families, (iii) assuring continued affordability through the sales process for buyers and renters after the conversion of the project, and (iv) providing training and counseling;

(L) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) *Selection criteria.* The Secretary would establish selection criteria for a national competition to award these grants. At a minimum, selection criteria would include:

(1) the ability of the applicant to develop and carry out the program;

(2) the affordability of the units;

(3) the quality and viability of the program;

(4) the extent to which funds that are not eligible to be included in the match are provided for the project;

(5) and whether the housing strategy includes the program as one of the general priorities identified pursuant to section 105(b)(7) of this Act.

(f) *Approval.* The Secretary would approve an implementation grant even though approval of section 9 assistance would be subject to the availability of appropriations.

*Sec. 304—Other Program Requirements and Limitations*

(a) *Location within participating jurisdictions.* The Secretary would be authorized to approve applications for grants under this subtitle only for public housing projects within participating jurisdictions under Title III of this Act.

(b) *Financing.* The application would describe the proposed financing for any rehabilitation and sale of the units. Financing could be by the implementation grant, conventional mortgage loans, FHA-insured mortgages, cash, or other financing mechanisms.

Transferred property could not be encumbered except when the Secretary determines that: there is no threat to the long term availability of the property for low-income families, there is no undue risks to the Federal Government or the public housing agency, debt obligation can be serviced from project income, and debt proceeds will be used to meet housing standards or to make capital improvements which the Secretary determines is consistent with the purposes of this title.

The section would also allow the PHA, RMC, or other ownership entity a reasonable opportunity to cure any financial default before a lender could foreclose on the property.

(c) *Housing standards.* Public housing projects would be required to meet standards established by the Secretary. The Secretary may give an applicant up to 3 years to meet such standards. A PHA could not convey title until the property meets established standards.

(d) *Qualified management.* The entity representing the tenants' interests must demonstrate its abilities to manage public housing by having done so for 3 years or by contracting with a qualified management organization.

(e) *Economic self-sufficiency plan.* If section 9 assistance is requested for use by homeowners, the applicant must provide a plan designed to reduce the need for assistance. This plan would include training, employment, and supportive services.

(f) *Sale by public housing agency to applicant or other entity required.* PHAs would transfer projects to applicants according to approved homeownership programs.

(g) *Preferences.* In selecting families for homeownership, current tenants would receive a first preference and families who have completed participation in Project Independence or another economic self-sufficiency program specified by the Secretary would receive a second preference.

(h) *Cost limitations.* The Secretary would be authorized to establish cost limitations for eligible activities.

(i) *Annual contributions.* The Secretary would be required to continue the payment of debt service on projects sold under this program.

(j) *Operating subsidies.* If the income of a transferred project cannot cover the operating costs, the PHA may enter into an operating assistance contract under section 9 of this Act.

(k) *Use of proceeds from sales to eligible families.* The entity that sells the units to the eligible would be authorized to use one half of the proceeds from these sales for costs of the homeownership program, additional homeownership opportunities, or other activities approved by the Secretary.

(l) *Restrictions on resale by homeowners.* A homeowner in a program could transfer interest in the unit only to low income families, at a price designed to provide a fair return on investment and ensure that the housing will remain affordable to low income buyers. The resident management corporation or resident council would have a right of first refusal to purchase a unit.

This section would limit any undue profit which the initial purchaser could receive upon selling the unit in one of four ways:

(A) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

(B) limiting the family's consideration for its interest in the property to the total of the contribution to equity, the value, and the appreciated value;

(C) a loan for the difference between the market value and the purchase price; or

(D) any other arrangement approved by the Secretary that prevents undue profits from accruing to the homeowner for at least 10 years.

Subsequent owners would be bound by the same limitations on resale and further restrictions on equity appreciation.

The entity that sells the units to the eligible would be authorized to use one half of the proceeds from these sales for costs of the homeownership program, additional homeownership opportunities, or other activities approved by the Secretary.

(m) *Replacement plan.* Public housing units which are transferred would have to be replaced in one of the following ways: the development of new units, the rehabilitation of vacant units, the use of 5-year vouchers, the use of a comparable state or local program that would provide assistance for at least 5 years, or any combination of these methods. The use of vouchers or a comparable state or local program would be permitted only if the alternatives are not feasible and there is an adequate supply of affordable housing.

(n) *Protection of non-purchasing families.* Non-purchasing tenants could not be evicted because of a homeownership program. If a tenant wishes to move, the recipient would have to offer the tenant relocation assistance in the form of another public housing unit, or a section 8 certificate or voucher for use in a dwelling of the tenant's choice. The section would also require the recipient to pay relocation expenses.

(o) *Dollar limitation on economic development activities.* Not more than an aggregate of $250,000 from amounts made available under sections 302 and 303, and under the CIAP program under section 14 of this act, could be used for economic development activities under sections 302(b)(6) and 303(b)(10) for any project.

(p) *Timely homeownership.* Recipients would transfer ownership of the property to tenants within a specified period of time which the Secretary determines to be reasonable.

(q) *Records and audit of recipients of assistance.* Recipients would be required to keep records necessary to disclose the amount and disposition of proceeds of assistance received, the total costs of the program, and the amount and nature of other sources contributed to the program.

The Secretary, Comptroller General or any duly authorized representatives would have access to such records.

*Sec. 305—Definitions*

This section would define the terms applicant, eligible family, homeownership program, recipient, and resident council.

*Sec. 306—Relationship to Other Homeownership Opportunities*

This title would not apply to Turnkey III, Mutual Help, or any other homeownership program.

*Sec. 307—Annual Report*

The Secretary would submit an annual reprot to Congress describing the units sold, the families participating, the financial assistance provided, and the recommendations of the Secretary to improve the program.

*Sec. 308—Limitation*

The Secretary's authority to provide financial assistance or enter into contracts under this title would be effective to the extent that funds have been appropriated.

### *Sec. 402—Related Amendments to Section 18, Demolition and Disposition of Public Housing*

This section would give tenant councils and resident management corporations the opportunity to purchase a project or portion of a project which is the subject of an application for disposition. This section would also clarify that the general replacement requirements governing the demolition or disposition of public housing under section 18 of the 1937 Act do not apply to the disposition of a public housing project in accordance with an approved homeownership program under title III of the same Act.

### *Sec. 403—Related Amendments to Section 8*

This section would revise the rental voucher program to authorize a nonpurchasing low income family to receive a rental voucher in connection with a homeownership program approved under the HOPE grant programs. This section would also (1) authorize the Secretary, under a new section 8(b)(2) of the 1937 Act, to make available rental certificates as replacements for public housing sold under title III of such Act; and (2) authorize the Secretary, under a new section 8(o)(9) of the 1937 Act, to make available rental vouchers as replacements for public housing sold under title III of such

Act. Replacement certificates and vouchers would need to be appropriated pursuant to section 8(b)(2) and section 8(o)(9) respectively in order to qualify as replacement housing.

### *Sec. 404—Related CIAP Amendments*

This section would authorize the Secretary, under a new section 14(n)(1) of the 1937 Act, to make available CIAP funds to rehabilitate vacant public housing units and, thereby, replace public housing sold to tenants under title III of the 1937 Act. CIAP funds would need to be appropriated pursuant to section 14(n)(1) of the 1937 Act in order to qualify as replacement housing.

This section would also authorize the Secretary, under a new section 14(n)(2) of the 1937 Act, to make available CIAP funds to supplement implementation grants made available under title III of the same Act.

### *Sec. 405—Related Amendment to Resident Management*

This section would require that technical assistance funding made available under section 20(f)(1) of the Housing Act of 1937 be used only for resident management activities in projects that will not be converted to homeownership under Title III of the same Act.

### *Sec. 406—Related Amendments to Section 9, Public Housing Operating Subsidies*

This section would revise Section 9 of the 1937 Act to ensure that, if a public housing agency transfers a public housing project in accordance with title III of the same Act, the operating subsidies received for such project would continue for a 5-year period in amounts not less than amounts that would be received if ownership had not transferred.

### *Sec. 407—Implementation*

(a) *In General.* HUD would be required to issue, not later than 120 days after funds become available, a notice containing requirements for the program. The section would also require HUD to issue final regulations within eight months of the notice.

(b) *Termination of Existing Public Housing Homeownership Provisions.* Section 5(h) and section 21 of the United States Housing Act of 1937 would be repealed effective on the date of enactment of the National Affordable Housing Act. Housing that was transferred for homeownership purposes under such sections prior to the date of enactment would not be affected by such repeal.

### *Sec. 408—Applicability*

The provisions of this title apply to Indian Housing Authorities (IHAs).

## SUBTITLE B—HOPE FOR HUD MULTIFAMILY HOMEOWNERSHIP

### *Sec. 411—Program Authority*

(a) The Secretary would be authorized to make grants for technical assistance, planning, implementation for homeownership programs.

(b) *Authority to reserve housing assistance.* The Secretary would be authorized to reserve certificate and housing voucher assistance for use in homeownership programs to assist homeowners with the costs of homeownership and to provide rental assistance for non-purchasing tenants.

(c) *Authorization.* Amounts of $25 million for fiscal year 1991, $35 million for fiscal year 1992, and $45 million for fiscal year 1993 would be authorized for grants under this section. Funds allocated for technical assistance and planning grants would be limited to $1 million each for any fiscal year.

### *Sec. 412—Technical Assistance Grants*

(a) *Grants.* The Secretary would be authorized to make technical assistance grants to develop the capacity of applicants to carry out homeownership programs.

(b) *Eligible activities.* Grants could be used for training and technical assistance.

(c) *Application.* Applicants would be required to submit applications for planning grants which contain at a minimum:

(A) a certification that the proposed activities are consistent with a housing affordability strategy;
(B) a request for the grant; and
(C) a description of the applicant and its qualifications.

(d) *Selection criteria.* The Secretary would establish selection criteria that include the qualification or capabilities of the applicant and other factors which the Secretary determines is appropriate.

### *Sec. 413—Planning Grants*

(a) *Grants.* The Secretary would be authorized to make planning grants to develop homeownership programs.

(b) *Eligible activities.* Grants could be used for:

(1) training and technical assistance for applicants;
(2) development of homeownership programs;
(3) preliminary architectural and engineering work;
(4) tenant and homebuyer counseling and training;
(5) planning for economic development, job training, and self-sufficiency activities;
(6) development of security plans; and
(7) actual preparation of the application.

(c) *Application.*

(1) Applications would be submitted in a form satisfactory to the Secretary.

(2) Applicants would be required to submit applications for planning grants which contain at a minimum:

(A) a certification that the proposed activities are consistent with a housing affordability strategy;
(B) a request for the grant;
(C) a description of the applicant and its qualifications;
(D) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing;

(E) a description of the property under consideration for purchase, and a description of the tenants.

(d) *Selection criteria.* The Secretary would establish selection criteria for a national competition which would include:

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in a homeownership program;

(3) the potential for developing an affordable homeownership program and the suitability of the project for homeownership;

(4) other factors which the Secretary determines to be appropriate.

(e) *Limitation on planning grants.* Grants would not exceed $100,000 for any project,

*Sec. 414—Implementation Grants*

(a) *Grants.* The Secretary would be authorized to make grants to carry out homeownership programs.

(b) *Eligible Activities.* Implementation grants could be used for the following eligible activities:

(1) architectural and engineering work;
(2) acquisition of the project;
(3) rehabilitation;
(4) administrative costs;
(5) legal fees;
(6) counseling and training;
(7) training;
(8) relocation of tenants;
(9) temporary relocation of tenants during rehabilitation;
(10) economic development activities;
(11) operating and replacement reserves for the project;

(c) *Matching funding.* Applicants would be required to contribute not less than 25 percent of the grant amount from non-federal sources which may include: cash contributions; administrative expenses; the value of taxes, fees, or other charges normally imposed; the value of land or other real property; the value of on-site or off-site infrastructure; other in-kind contributions as the Secretary may approve.

(d) *Application.* Applicants would submit applications for implementation grants according to procedures established by HUD. At a minimum, the application would be required to contain:

(A) a certification that the proposed activities are consistent with the housing strategy under section 105 of this Act and that the matching funds shall be provided;

(B) a request for and the amount of the grant;

(C) if section 8 assistance is needed, an application for that assistance, including proposed uses of this assistance and length of the assistance period;

(D) a description of the proposed homeownership program, specifying proposed activities and their costs and a schedule for carrying them out and a demonstration that the program would be affordable to eligible families;

(E) identification of the project to be sold and a description of the composition of its tenants;

(F) a plan for giving tenants an opportunity to become owners by identifying the price, the factors influencing the price, a comparison to appraised value, the underwriting standard to be used, financing arrangements, and schedule of sale;

(G) a description of the resources that would be used for the matching funding;

(H) identification of the financing proposed;

(I) the sales price and terms of the sale to the applicant;

(J) a description of the entity that will operate and manage the property;

(K) a plan for (i) selecting families to participate in the program (ii) providing relocation assistance to families (iii) assuring continued affordability through the sales process for buyers and renters after the conversion of the project, (iv) providing training and counseling; (v) where eligible families are expected to receive the benefit of Federal, State, and local assistance, a plan for promoting their economic self-sufficiency; and

(L) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) *Approval.* The Secretary would be authorized to approve an implementation grant even though approval of section 8 assistance would be subject to availability of appropriations.

(f) *Selection criteria.* The Secretary would establish selection criteria for a national competition to award these grants. At a minimum, selection criteria would include:

(1) the ability of the applicant to develop and carry out the program;

(2) affordability of the proposed sales program by current tenants and other eligible families.

(3) the quality and viability of the program;

(4) the extent and urgency of the need to approve the application in order not to lose an opportunity to convert units to homeownership;

(5) the extent to which funds that are not eligible to be included in the match are provided for the project;

(6) and whether the housing strategy includes the program as one of the general priorities identified pursuant to section 105(b)(7) of this Act.

### *Sec. 415—Other Program Requirements and Limitations*

(a) *Location within participating jurisdictions.* The Secretary would be authorized to approve applications for grants under this subtitle only for public housing projects within participating jurisdictions under Title III of this Act.

(b) *Financing.* The application would describe the proposed financing for any rehabilitation and sale of the units. Financing could be by the implementation grant, conventional mortgage loans, FHA-insured mortgages, cash, or other financing mechanisms.

Transferred property could not be encumbered except when the Secretary determines that: there is no threat to the long term availability of the property for low-income families, there is no undue risks to the Federal Government, debt obligation can be serviced from project income, and debt proceeds will be used to meet housing standards or to make capital improvements which the Secretary determines is consistent with the purposes of this title.

The section would also allow the PHA, RMC, or other ownership entity a reasonable opportunity to cure any financial default before a lender could foreclose on the property.

(c) *Housing standards.* Public housing projects would be required to meet standards established by the Secretary. The Secretary may give an applicant up to 3 years to meet such standards.

A PHA could not convey title until the property meets established standards.

(d) *Qualified management.* The entity representing the tenants' interests must demonstrate its abilities to manage public housing by having done so for 3 years or by contracting with a qualified management organization.

(e) *Economic self-sufficiency plan.* If Federal, State, or local is requested for use by homebuyers or homeowners, the applicant must provide a plan designed to reduce the need for assistance. This plan would include training, employment, and supportive services.

(f) *Preferences.* In selecting families for homeownership, qualified tenants would receive a first preference and families who have completed participation in Project Indepdence or another economic self-sufficiency program specified by the Secretary would receive a second preference.

(g) *Cost limitations.* The Secretary would be authorized to establish cost limitations for eligible activities.

(h) *Use of proceeds from sales to eligible families.* The entity that sells the units to the eligible would be authorized to use one half of the proceeds from these sales for costs of the homeownership program, additional homeownership opportunities, or other activities approved by the Secretary.

(i) *Restrictions on resale by homeowners.* A homeowner in a program could transfer interest in the unit only to low income families, at a price designed to provide a fair return on investment and ensure that the housing will remain affordable to low income buyers.

This section would limit any undue profit which the initial purchaser could receive upon selling the unit in one of four ways:

(A) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

(B) limiting the family's consideration for its interest in the property to the total of the contribution to equity, the value, and the appreciated value;

(C) a loan for the difference between the market value and the purchase price; or

(D) any other arrangement approved by the Secretary that prevents undue profits from accruing to the homeowner for at least 10 years.

Subsequent owners would be bound by the same limitations on resale and further restrictions on equity appreciation.

The entity that sells the units to the eligible would be authorized to use one half of the proceeds from these sales for costs of the homeownership program, additional homeownership opportunities, or other activities approved by the Secretary.

(j) *Participation of non-purchasing families.* Non-purchasing tenants could not be evicted because of a homeownership program, and section 8 certificates or vouchers would be available to such tenants. If a tenant wishes to move, the recipient would pay the tenant relocation assistance.

(k) *Sale of eligible properties by the Secretary.* HUD would have the authority to require properties sold at a foreclosure sale to be used only in accordance with a homeownership program approved under this subtitle.

(l) *Dollar limitation on economic development activities.* Not more than an aggregate of $225,000 would be made available under activities 412 and 413 may be used for economic development activities under sections 412(b)(5) and 413(b)(10) for any project.

(m) *Timely homeownership.* Recipients would transfer ownership of the property to tenants within a specified period of time which the Secretary determines to be reasonable.

(n) *Records and audit of recipients of assistance.* Recipients would be required to keep records necessary to disclose the amount and disposition of proceeds of assistance received, the total costs of the program, and the amount and nature of other sources contributed to the program.

The Secretary, Comptroller General or any duly authorized representatives would have access to such records.

(o) *Certain entities not eligible.* Entities that assume a mortgage covering a eligible property under this section, but which do not intend to own the housing on a permament basis, would be required to comply with any low-income affordability restrictions for the term of the mortgage.

### *Sec. 416—Section 8 Assistance*

(a) *Homeownership.* The Secretary would have the authority to provide assistance to transferred properties which do not have adequate income to cover operating costs.

(b) *Exception to section 8 preference.* This section would not require the PHA to apply the current statutory preferences for awarding section 8 assistance to those who reside in the project at the time the Secretary approves the implementation grant.

### *Sec. 417—Definitions*

This section would define the terms applicant, eligible family, eligible property, homeownership program, Indian housing authority, low income family, public housing agency, recipient, resident council, and Secretary.

### *Sec. 418—Annual Report*

The Secretary would submit an annual report to Congress describing the units sold, the families participating, the financial assistance provided, and the recommendations of the Secretary to improve the program.

### *Sec. 419—Limitation*

The Secretary's authority to provide financial assistance or enter into contracts under this title would be effective to the extent that funds have been appropriated.

### *Sec. 420—Exemption*

This section would exempt sales of FHA multifamily properties under this homeownership program from the requirements of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 and from the restrictions placed by section 203 of the Housing and Community Development Amendments of 1978 on sales of properties at foreclosure or after acquisition by the Secretary.

### *Sec. 421—Related National Housing Act Amendment*

This section would amend the National Housing Act to permit families receiving an FHA-insured mortgage loan to have the minimum 3% downpayment covered by this Act.

### *Sec. 422—Related Section 8 Amendment*

This section would authorize the Secretary, under a new section 8(b)(3) of the 1937 Act, to make available rental certificates to projects transferred under this subtitle to provide assistance for the operating costs of a homeownership program.

### *Sec. 423—Implementation*

HUD would be required to issue, not later than 120 days after funds become available, a notice containing requirements for the program. The section would also require HUD to issue final regulations within eight months of the notice.

## SUBTITLE C—HOPE FOR HOMEOWNERSHIP THROUGH NONPROFIT ORGANIZATIONS

### *Sec. 431. Program Authority*

(a) *In general.* The Secrertary would be authorized to make implementation grants to carry out homeownership programs under this subtitle.

(b) *Authority to reserve housing assistance.* The Secretary would be authorized to reserve certificate and housing voucher assistance for use in homeownership programs to assist non-purchasing tenants.

(c) *Authorization.* Amounts of $25 million for fiscal year 1991, $35 million for fiscal year 1992, and $45 million for fiscal year 1993 would be authorized for grants under this section.

### *Sec. 432—Implementation Grants*

(a) *Grants.* The Secretary would be authorized to make grants to carry out homeownership programs.

(b) *Eligible Activities.* Implementation grants could be used for the following eligible activities.

(1) architectural and engineering work;
(2) acquisition of the project;
(3) rehabilitation;

(4) administrative costs;
(5) legal fees;
(6) counseling and training;
(7) training;
(8) relocation of tenants;
(9) temporary relocation of tenants during rehabilitation;
(10) replacement reserves for the project;

(c) *Matching funding.* Applicants would be required to contribute not less than 25 percent of the grant amount from non-federal sources which may include: cash contributions; administrative expenses; the value of taxes, fees, or other charges normally imposed; the value of land or other real property, the value of on-site or off-site infrastructure; other in-kind contributions as the Secretary may approve.

(d) *Application.* Applicants would submit applications for implementation grants according to procedures established by HUD. At a minimum, the application would be required to contain:

(A) a certification that the proposed activities are consistent with the housing strategy under section 105 of this Act and that the matching funds shall be provided;

(B) a request for, and the amount of, the grant;

(C) if section 8 assistance is needed, an application for that assistance, including proposed uses of this assistance and length of the assistance period;

(D) a description of the qualifications of the applicant in providing lower income housing;

(E) a description of the proposed homeownership program, specifying proposed activities and their costs and a schedule for carrying them out, the area to be served, the affordability of the program, and the schedule for carrying out the program;

(F) a plan for giving tenants an opportunity to become owners by identifying (i) the price, (ii) the factors influencing the price, (iii) a comparison to appraised value (iv) the underwriting standard to be used, (v) financing arrangements, (vi) and schedule of sale; identification of the project to be sold and a description of the composition of its tenants;

(G) a description of the type of properties that would be covered;

(H) a description of the resources that would be used for the matching funding;

(I) identification of the financing proposed;

(J) a plan for (i) selecting families to participate in the program, (ii) providing relocation assistance to families, and (iii) assuring continued affordability through the sales process for buyers and renters after the conversion of the project; and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) *Selection criteria.* The Secretary would establish selection criteria for a national competition to award these grants. At a minimum, selection criteria would include:

(1) the ability of the applicant to develop and carry out the program;

(2) the quality and viability of the program;

(3) the extent that suitable property is available in the area and is federally owned; and

(4) and whether the housing strategy includes the program as one of the general priorities identified pursuant to section 105(b)(7) of this Act.

*Sec. 433—Other Program Requirements and Limitations*

(a) *Homeownership program.* This section would establish the basic requirements under which homeownership programs would operate, including:

(1) acquisition of the property by the recipient and reimbursement of the seller;

(2) acquisition by an eligible family of an ownership interest in the property from the recipient only when the property meets housing standards to be established by the Secretary;

(3) payment by the eligible family towards the costs of homeownership;

(4) correction by the eligible family of all health and safety defects within one year, completion of repairs and improvements necessary to meet prescribed housing standards within three years, and permission for periodic local government inspections; and

(5) conveyance by the grantee of fee simply title or shares representing the unit to the eligible family upon compliance with all requirements.

(b) *Preferences.* In selecting families for homeownership, qualified tenants would receive a first preference and families who have completed participation in Project Independence or another economic self-sufficiency program specified by the Secretary would receive a second preference.

(c) *Cost limitations.* The Secretary would be authorized to establish cost limitations for eligible activities.

(d) *Resale by homeowners.*

(1) A homeowner in a program could transfer interest in the unit only to low income families, at a price designed to provide a fair return on investment and ensure that the housing will remain affordable to low income buyers.

(2) This section would limit any undue profit which the initial purchaser could receive upon selling the unit in one of four ways:

(A) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

(B) limiting the family's consideration for its interest in the property to the total of the contribution to equity, the value, and the appreciated value;

(C) a loan for the difference between the market value and the purchase price; or

(D) any other arrangement approved by the Secretary that prevents undue profits from accruing to the homeowner for at least 10 years.

(3) Subsequent owners would be bound by the same limitations on resale and further restrictions on equity appreciation.

(4) The entity that sells the units to the eligible would be authorized to use one half of the proceeds from these sales for costs of the homeownership program, additional homeownership opportunities, or other activities approved by the Secretary.

(e) *Protection of non-purchasing families.* Non-purchasing tenants could not be evicted because of a homeownership program, and section 8 certificates or vouchers would be available to such tenants. If a tenant wishes to move, the recipient would pay the tenant relocation assistance.

### *Sec. 434—Exception to Section 8 Preference*

This section would not require the PHA to apply the current statutory preferences for awarding section 8 assistance to those who reside in the project at the time the Secretary approves the implementation grant.

### *Sec. 435—Definitions*

This section would define the terms applicant, eligible family, eligible property, homeownership program, Indian housing authority, low income family, public housing agency, recipient, and Secretary.

### *Sec. 436—Implementation*

HUD would be required to issue, not later than 120 days after funds become available, a notice containing requirements for the program. The section would also require HUD to issue final regulations within eight months of the notice.

# TITLE V—AFFORDABLE RENTAL HOUSING

## SUBTITLE A—PRESERVATION OF AFFORDABLE RENTAL HOUSING

### *Sec. 501—Management and Preservation of Federally-Assisted Housing*

Tenants living in Section 236 and 221(d)(3) housing, whose incomes exceed 80 percent of area median income, would be required to pay as rent the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under Section 8 of the jurisdiction in which the housing is located. Any rent increases would be phased in.

### *Sec. 502—Flexible Subsidy Program*

The Flexible Subsidy Program would be reauthorized. Amounts of $50 million for fiscal year 1991, $52 million for fiscal year 1992 and $54.08 million for fiscal year 1993 would be authorized for this program.

### *Sec. 503—Preservation of Low-Income Housing and Resident Ownership*

This section would substantially revise subtitles A and B of title II of the Emergency Low Income Housing Preservation Act of 1987, which governs prepayments of mortgages on properties developed under certain FHA multifamily insurance programs under the National Housing Act. The following would be a revision of Title II:

## PRESERVATION ACT: TITLE II—PRESERVATION OF LOW-INCOME HOUSING AND RESIDENT OWNERSHIP

### SUBTITLE A—SHORT TITLE

*Preservation Act: Sec. 201—Short Title*

This section would change the name of the 1987 Act from the "Emergency Low Income Housing Preservation Act of 1987" to the "Low-Income Housing Preservation and Resident Homeownership Act of 1990."

### SUBTITLE B—PREPAYMENT OF MORTGAGES INSURED UNDER THE NATIONAL HOUSING ACT AND RESIDENT HOMEOWNERSHIP

*Preservation Act: Sec. 221—General Prepayment Limitation*

An owner of eligible low-income housing may prepay (or voluntarily terminate the mortgage insurance) and a mortgagee may accept prepayment only in accordance with a plan of action approved by the Secretary. In addition, a mortgagee may not foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing without the Secretary's approval.

*Preservation Act: Sec. 222—Notice of Intent*

Under section 222(a), an owner of eligible low-income housing that intends to terminate the low-income affordability restrictions (through prepayment or voluntary termination) in accordance with section 224, seeks to extend such restrictions in accordance with section 225, or transfer the housing to a qualified purchaser in accordance with section 226 would be required to file a notice of intent. The owner could file this notice up to eighteen months before the date of eligibility to prepay (see the definition of eligible low-income housing, especially section 233(1)(B)). An owner would not be eligible to file a notice of intent under this section if:

(1) the mortgage covering the housing falls into default on or after the effective date of the Act; or

(2) the mortgage covering the housing fell into default before, but is current as of, that date; and the owner does not agree to recompense, in such amount as the Secretary may determine, the appropriate Insurance Fund for any losses sustained by the Fund as a result of any work-out or other arrangement agreed to by the Secretary and the owner with respect to the defaulted mortgage.

Subsection (b) would require an owner to simultaneously file the notice with the appropriate State or local government and notify the tenants of the housing.

*Preservation Act: Sec. 223—Information from the Secretary; Plan of Action*

Section 223 would require the Department to provide information to both the owner and the tenants.

Under subsection (a)(1), HUD would be required to provide owners with information needed to prepare a plan of action. Owners seeking termination of the low-income affordability restrictions would be provided a description of the criteria specified under section 224 and the documentation required to meet such criteria. Owners seeking to extend the low-income affordability restrictions or transfer the housing to a qualified purchaser would be provided a notice of the housing's preservation value under section 228 and a description of the Federal incentives under sections 225 and 226.

Under subsection (a)(2), HUD would be required to make this and other information available to the tenants. See section 234 on required methods for notifying tenants.

Subsection (b) would permit an owner to submit a plan of action within six months of receipt of the information described in subsection (a), with a copy to the tenants and appropriate government officials, who would notify tenants of any programs available that could assist the tenants. Failure to submit the plan within this time (or such longer established period when a potential transfer is involved) would result in a six-month waiting period, after which the owner could file another notice of intent and begin the process again.

Subsection (c) would list the required contents of the plan of action. The required contents would differ depending upon whether a notice of intent seeks to terminate the low-income affordability restrictions or whether it seeks to extend the low-income affordability restrictions or transfer the housing to a qualified purchaser.

Subsection (d) would allow the owner to revise the plan as needed.

### *Preservation Act: Sec. 224—Prepayment and Voluntary Termination*

Section 224 would outline the criteria that would govern approval of a plan of action that seeks termination of the low-income affordability restrictions through prepayment or voluntary termination. The Secretary could approve such a plan only upon finding that the plan satisfies long-established national housing objectives. Specifically, the Secretary must find that implementation of the plan would (a) not create economic hardship for current tenants or displace them where comparable and affordable housing is not readily available (b) would not materially affect the general supply of low-income housing in the market area, lessen the ability of low-income people to find housing near job opportunities or reduce housing opportunities for minorities.

### *Preservation Act: Sec. 225—Incentives to Extend Low-Income Use*

Subsections (a) and (b) would direct the Secretary to offer incentives to owners seeking to extend the low-income affordability restrictions for the remaining useful life of the housing. The Secretary would provide incentives necessary to give the owner an annual return of 8 percent on its equity in the housing (the preservation value minus the existing HUD mortgage). The Secretary could approve one or more of the following incentives:

(1) modifying existing regulatory agreements with the owners to allow them to receive increased access to residual receipts accounts;

(2) increasing the rents permitted under section 8 contracts to increase, to cover the costs associated with measures that provide additional cash to the owners, and providing additional or extending the term of section 8 rental assistance, to enable residents of the property to afford the rents;

(3) increasing the rents on units occupied by current tenants as permitted under section 227;

(4) financing of capital improvements through a direct capital improvement loan under section 201 of the Housing and Community Development Amendments of 1978;

(5) financing of capital improvements through an insured loan under section 241;

(6) in the case of a section 236 project, redirection of the Interest Reduction Payments subsidies to a second mortgage; and

(7) other incentives authorized in law

*Preservation Act: Sec. 226—Incentives to Transfer the Housing to Qualified Purchasers*

This section would establish the process that would goven owners who seek to transfer their housing to a qualified purchaser.

Subsection (a) would contain the general rule that owners, who submit a notice of intent seeking to transfer the housing to a qualified purchaser, must give priority purchasers (resident councils, nonprofit organizations and public agencies) a right of first offer to purchase the housing before offering to sell the housing to any qualified purchaser.

Under subsection (b), for the 3 month period following receipt of a notice of intent, owners would be required to give priority purchasers an opportunity to provide written notice of their interest in purchasing the housing. Purchasers who express such interest would be entitled to receive within 30 days pertinent information from the Secretary or the owner. Priority purchasers would then have 9 months to negotiate a purchase with the owner and submit (with the owner) a plan of action requesting incentives.

Subsection (c) would permit an owner to offer to sell the housing to any qualified purchaser where (1) no priority purchaser has expressed interest; or (2) where a priority purchaser has expressed interest but has not been able to reach agreement on a sale within the 9 month period.

Subsection (d)(1) would permit the Secretary to approve a plan of action requesting incentives only if residents who occupy 50 percent or more of the units in the housing support the transfer. Plans involving transfer to resident councils could be approved only if the resident homeownership programs meets the requirement under section 230. Plans involving tranfers to other qualified purchasers could be approved only if the criteria under section 227 are satisfied.

Under subsection (d)(2), the Secretary would, for approvable plans of action, provide subsidies sufficient to (A) acquire the housing at the housing's preservation value; (B) rehabitate the housing up to standards established by the Secretary; and (C) establish adequate operating and replacement reserves. In the case of approved resident homeownership programs, the Secretary would also provide subsidies to cover the costs of training activities, homeownership counseling and other activities.

Subsection (d)(3)(A) would permit the Secretary to provide grants for acquisition by priority purchasers. The amount of the grant could not exceed the present value of the total of the projected published section 8 existing housing fair market rents for the next 10 years (or such longer period as needed to cover qualifying costs).

Subsection (d)(3)(B) would permit the Secretary to use the incentives authorized under section 225(b) to finance the acquisition and rehabilitation of housing by qualified purchasers. The Secretary could also finance acquisition and rehabilitation through the provision of insurance for a second mortgage under section 241 of the National Housing Act.

Subsection (e) would define the terms "priority purchaser" and "qualified purchaser".

*Preservation Act: Sec. 227—Criteria for Approval of Plan of Action Involving Incentives*

Subsection (a) would establish limitations on when the Secretary could approve an owner's plan of action involving incentives. Under subsection (a)(1), a plan of action could not be approved unless HUD found that the package of incentives is the least costly alternative available to meet the objectives of the bill. Under subsection (a)(2), there would have have to be binding commitments that:

—the housing would be retained as affordable housing for the remaining useful life of the housing:

—expenditures for maintenance and operation would be adequate throughout this period;

—tenants would not be displaced as a result of the incentives package;

—any increases in tenant rent would not result in rent burdens in excess of 30% of adjusted income, or the published section 8 existing housing FMR, whichever is lower (current residents would not qualify for a reduction of rent);

—any rent increases would be phased in, and section 8 rental assistance would be provided as necessary to help very low-income and low income tenants afford the higher rents;

—rents would be at levels that would ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income, low income, and moderate income tenants in the project; and

—increases in allowable rents would be adequate to cover reasonable increases in operating costs.

Subsection (a)(3) would require that incentives be used first to address any physical deficiencies in the properties.

Subsection (b) would authorize the Secretary, in entering into section 8 assistance contracts with the owner, to agree to future extensions of the term of such rental assistance, contingent upon the future availability of appropriations. This subsection would also provide procedures for modifying or terminating plans of action involving incentives in the event that the Secretary is subsequently unable to extend the contract term of any rental assistance necessary to carry out an approved plan of action. However, HUD could terminate a plan of action only if the owner agreed in writing to take the actions specified in the plan to ensure that any tenants displaced are relocated to affordable housing.

Subsection (c) would require a description of specific actions that will be taken to ensure that any displaced tenants are relocated to affordable housing, if the Secretary is unable to extend the term of assistance on a section 8 contract and any modifications permitted under subsection (b), above, are made.

Subsection (d) would permit agreements to maintain the low-income affordability restrictions for the remaining useful life of the housing to be made through execution of a new regulatory agreement, modifications to the existing regulatory agreement or mortgage or, in the case, of a prepayment or voluntary termination, a recorded instrument.

### *Preservation Act: Sec. 228—Preservation Value*

Subsection (a) would define the preservation value of eligible low-income housing under this subtitle as an amount equal to the fair market value of the housing as multifamily rental housing, as calculated in accordance with subsection (b).

Subsection (b) would establish the method for determining fair market value. Subsection (b)(1) would require that the fair market value be determined by two independent appraisers, one chosen by the Secretary and one chosen by the owner. If the two appraisers fail to agree on the fair market value, the Secretary and the owner would jointly select a third appraiser, whose appraisal would be binding on the parties.

Under subsection (b)(2), the Secretary would provide written guidelines for appraisals of fair market value. The guidelines would assume prepayment of the existing HUD-assisted mortgage, termination of the existing low-income affordability restrictions and conversion of market rate, rental housing. Such guidelines would establish methods for determining (A) rehabilitation costs that would have been needed to bring the housing up to market rate quality standards and (B) other costs that would have been incurred upon conversion of the property to market rate, rental housing. The value of the property calculated in accordance with the guidelines would also be discounted to reflect the residual value of the prior Federal assistance in the development, operation and maintenance of the housing. The Secretary would be authorized to establish a standard discount percentage that could be applied to every project.

Subsection (b)(3) authorizes the Secretary to approve a plan of action under section 225 or section 226 only based upon an appraisal that is no more than one year old.

### *Preservation Act: Sec. 229—Timetable for Approval of Plan of Action*

This section contains a streamlined table for consideration and review of plans of actions. Subsection (a) would require the Secretary to provide a written assessment of the plan of action within 60 days of receiving the plan. The assessment would outline any deficiencies that prevent the plan from being approved and would describe alternative ways in which the plan could be revised to rectify the deficiencies.

Subsection (b) would require the Secretary to provide a final determination on approval within 180 days of receiving the plan of action. If approval is withheld, the determination shall describe the reasons for the disapproval and actions that could be taken to meet the criteria for approval. The Secretary must give the owner a reasonable opportunity to revise the plan of action and seek approval.

*Preservation Act: Sec. 230—Resident Homeownership*

Subsection (a) would require tenants seeking to purchase eligible low-income housing to form a resident council for the purpose of developing a resident homeownership program. The resident council would be required to work with a nonprofit organization or public body approved by HUD, such as a public housing agency (PHA), to help assure that the tenants have full access to relevant information and for purposes of capacity building.

Subsection (b) would establish requirements and limitations to govern resident homeownership programs.

Subsection (b)(1) would resident councils to prepare a plan for giving tenants an opportunity to become owners by identifying the price at which onwership interests or shares will be transferred, the factors influencing the price, a comparison to appraised value, the underwriting standard to be used, financing arrangements, and schedule of sale.

Subsection (b)(2) would provide for HUD to approve the method for converting to homeownership, which could involve any appropriate arrangement, including cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominiums).

Under subsection (b)(3), resident councils would have latitude in establishing initial low-income requirements and occupancy charges if such policies met HUD standards and requirements. Homeownership programs would generally be expected to be self-supporting through a process of cross-subsidy, so that continuing operating assistance would not be needed. Each initial owner would have to occupy the unit it acquired.

Subsection (b)(4) would permit 50 percent of the proceeds from sales to eligible families to be used for the costs of the homeownership program, including project improvements, operating and replacement reserves, and additional homeownership opportunities, including assistance to make it possible for later families to afford to purchase units in the project. Other project-related activities approved by HUD would also be eligible. The remaining 50 percent of the proceeds would be returned to the Secretary for use under section 226.

Subsection (b)(5)(A) would permit a homeowner in a program to transfer interest in the unit only to low income families, at a price designed to provide a fair return on investment and ensure that the housing will remain affordable to low income buyers.

Subsection (b)(5)(B) would limit any undue profit which the initial purchaser could receive upon selling the unit in one of four ways:

(i) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

(ii) limiting the family's consideration for its interest in the property to the total of the contribution to equity, the value, and the appreciated value;

(iii) a loan (promissory note secured by a mortgage) for the difference between the market value and the purchase price, which the family must pay at the time of resale to the entity designated for this purpose in the program plan; or

(i) any other arrangement approved by the Secretary that prevents undue profits from accruing to the homeowner for at least 10 years.

Under subsection (b)(5)(C), the resident council (or other entity) would need to ensure that subsequent owners are bound by the same limitations on resale and equity appreciation.

Under subsection (b)(5)(D), one half of the subsidy funds recaptured under any of these provisions could be used for the same project-related purposes as the original proceeds of sale. The remaining half would be returned to HUD for reuse under section 226.

Subsection (b)(6) would provide that no tenant residing in the property on the date HUD approves a plan of action could be evicted by reason of implementation of a homeownership program. If an income-eligible tenant decides not to purchase a unit, the Secretary would ensure that section 8 would be made available to such tenant for use in that or another property. The requirement for giving preference to certain categories of eligible families under section 8(d)(1)(A) and 8(o)(3) of the United States Housing Act of 1937 would not apply to the provision of assistance to such tenants. The council would also be required to inform each tenant that if the tenant chooses to move, the owner will pay relocation assistance.

Subsection (b)(7) would require the entity representing the tenants' interests to demonstrate its abilities to manage eligible housing by having done so for 3 years or by contracting with a qualified management organization.

Subsection (b)(8) Resident councils would transfer ownership of the property to tenants within a specified period of time which the Secretary determines to be reasonable.

Subsection (b)(9) Resident councils would be required to keep records necessary to disclose the amount and disposition of proceeds of assistance received, the total costs of the program, and the amount and nature of other sources contributed to the program.

The Secretary, Comptroller General or any duly authorized representatives would have access to such records.

Finally, subsection (b)(10) would provide that any entity that assumes, as determined by the Secretary, mortgage covering low-income housing in connection with the acquisition of the housing from an owner under this section must comply with any low-income affordability restrictions for the remaining term of the mortgage. This requirement would only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis. This coverage would permit situations in which the entity intends to hold the property for a interim period within which units would be "spun off" to individual ownership.

Subsection (h) would authorize the Secretary to approve a plan of action involving resident homeownership if the proposed program meets the requirements of the amended subtitle and is considered feasible.

### *Preservation Act: Sec. 232—Consultations with Other Interested Parties*

Section 228 would require the Secretary to confer with State and local government agencies and other appropriate interested parties to further achievement of the objectives of this subtitle.

### *Preservation Act: Sec. 233—Definitions*

Section 233 would provide definitions of terms used in the amended subtitle.

### *Preservation Act: Sec. 234—Notice to Tenants*

Section 234 would indicate that requirements to provide information to tenants would be met by posting either information or notices of the availability of information on readily accessible bulletin boards, and by supplying a copy of the information to a representative of the tenants.

### *Preservation Act: Sec. 235—Authorization of Appropriations*

The bill would authorize $412,500,000 for fiscal year 1991, $858,000,000 for fiscal year 1992 and $892,320,000 for fiscal year 1993.

### *Preservation Act: Sec. 236—Applicability*

The provisions of the amended subtitle would apply to any property whose owner is eligible to prepay the Emergency Low Income Housing Preservation Act of 1987.

(The following section numbers refer to sections of S. 566:)

### *Sec. 505—Related National Housing Act Amendments*

Section 505 would make conforming amendments to reflect changes made by this title.

### *Sec. 506—Related U.S. Housing Act of 1937 Amendments*

Section 506 would make conforming amendments to section 8 of the United States Housing Act of 1937.

### *Sec. 507—Extension of Prior Law Until Effective Date of This Act*

As provided by section 507, enactment of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 would have the immediate effect of repealing section 203 of the 1987 Act, which had specified a two-year limitation on applicability of subtitles B and D. The effect of this would be to extend prior law restrictions until the amendments made by this title would take effect.

### *Sec. 508—Transition*

Even after enactment of these new subtitles, certain cases would continue to be handled under the previous (i.e., the 1987) procedures if:

(a) the owner filed a notice of intent before January 1, 1990; and

(b)(1) the Secretary approves a prepayment, voluntary termination, or package of incentives before the effective date of this title, and (2) the owner has (A) executed and recorded a use restriction or regulatory agreement modification under a HUD-approved plan of action, or (B) entered into a regulatory agreement modification pursuant to section 228.

### *Sec. 509—Effective Date*

Section 509 of the bill would set the effective date of the amendments (other than section 507) as the date of issuance of final regulations by the Secretary.

## SUBTITLE B—LOW-INCOME RENTAL ASSISTANCE

### *Sec. 521—Revisions to Section 8 Program*

Section 521 would make a number of revisions to the rental assistance programs authorized under section 8 of the U.S. Housing Act of 1937.

(a) *Designation of Certificate and Voucher Programs.* Section 8(b)(1) would be entitled "rental certificates." Section 8(o) would be entitled "rental vouchers."

(b) *Fair Market Rent Refinement.* Section 8(c)(1) would be amended to permit the Secretary to approve an alternative FMR schedule to establish more than one FMR for an area if the alternative schedule reflects rent differences among submarkets and will improve housing opportunities for minorities and families with special needs, provide very low-income families better access to employment and educational opportunities, or otherwise help achieve national housing policy.

(c) *Tenant Rent Contribution Under Tenant-Based Certificate Program.*

(1) Section 8(c)(3) would be amended to permit families receiving tenant-based assistance to pay a higher percentage of income if the family notifies the local PHA of its interest in a unit that rents for more than the area's FMR limitation and the PHA determines that the rent and the family's rental payments would be reasonable. A PHA may approve excess rentals for no more than 10 percent of its annual allocation of incremental rental assistance under section 8(b)(1). If it approves excess rentals for more than 5 percent, it must submit a report to HUD describing the reasons, including any evidence that the FMRs are too low. The Secretary would be required to submit an annual report to Congress identifying the PHAs that have submitted reports, summarizing and assessing these reports and including recommendations for legislative or administrative actions that could rectify the problem.

(2) A conforming amendment would be made to section 8(c)(1)(A).

(d) *Special Revisions to Project-Based Certificate Program.*

(1) *Tenant Selection.* Section 8(d)(2) would be amended to require owners of units with project-based assistance to adopt written tenant selection policies and criteria that meet certain standards. Owners would promptly notify in writing any rejected applicant of the grounds for rejection.

(2) *Project-Basing of Certificates.* Section 8(d)(2)(A) would be amended to remove the current 15 percent limitation on the project-basing of rental certificates. This is necessary in part to ensure that the HOP program can work in tandem with the Section 8 rental assistance program.

(3) *Term of Assistance.* Section 8(d)(2)(C) would be amended to require PHAs, when executing a contract for project-based rental assistance, to enter into a commitment, contingent only upon future appropriations, to extend the term of the underlying rental assistance contract for such period or periods as HUD determines is appropriate to achieve long-term affordability. Owners would be bound to accept such extensions.

(4) *Energy Efficiency.* Section 8(d)(2)(B) would be amended to require that, where project-based rental assistance supports the new construction of affordable housing, such housing meet HUD's energy efficiency standards.

(e) *Revisions to Voucher Program.*

(1) *Reasonableness of Rents.* Section 8(o) would be amended to require PHAs to review rents for units under consideration by voucher holders to ensure that the rents are reasonable. Proposed rent increases would also be reviewed. Where rents or rent increases are not reasonable, the lease for the applicable units could be disapproved. A PHA would also be required, upon request, to assist a family in negotiating rents.

(2) Documentation of Excessive Rent Burdens. Section 8(o)(9) would be amended to require PHAs to obtain information on the rent burdens of voucher holders. If, during any fiscal year, more than 10 percent of a jurisdiction's voucher holders have excessive rent burdens, a PHA must submit a report to HUD describing the reasons for the problem, including any evidence that the FMRs are too low. The Secretary would be required to submit an annual report to Congress identifying the PHAs that have submitted reports, summarizing and assessing these reports and including recommendations for legislative or administrative actions that could rectify the problem.

(3) *Adjustment of Subsidy.* Section 8(o)(2) would be amended to prevent windfalls for tenants who use a voucher to rent the same unit in which they resided before they received the voucher.

(f) *Tenant Protections.* Section 8(d)(1)(B) would be amended to ensure that each lease provide that the tenant, any member of the tenant's household, or a guest or other persons under the tenant's control shall (1) not engage in any activity that adversely affects the health, safety or right to quiet enjoyment of the premises of other tenants, and (2) not engage in criminal activity, including drug-related criminal activity that threatens the health, safety or right to quiet enjoyment of the premises of other tenants. Such criminal activity would be cause for termination of tenancy.

Owners would also be required to give written notice to tenants before terminating tenancy, specifying the grounds for such action.

(g) *Distribution of Certificates.* Section 213(d)(1)(A) of the Housing, and Community Development Act of 1974 would be amended to require rental certificates to be allocated in a way that enables participating jurisdictions to carry out approved housing strategies. These jurisdictions would submit their recommendations for the allocation of rental certificates.

(h) *Renewal of Expiring Contracts.*

(1) A new section 8(w) would be added to require HUD, by October 30 of each year, to publish a plan to reduce annual fluctuations in levels of budget authority needed to renew section 8 contracts expiring in the subsequent 5 years. ACCs of less than five years would be authorized to achieve this result.

(2) Section 8(d)(2) would be amended to require the Secretary to permit PHAs to enter into rental assistance contracts with terms of less than 12 months in order to avoid disruptions when annual contributions contracts are approaching expiration.

(i) *Definitions.* Section 8(f) would be amended to define the terms "participating jurisdiction" and "drug-related criminal activity".

(j) *Low-Income Term.* The U.S. Housing Act of 1937 would be amended by changing the term "lower income families" to "low-income families". The term refers to families with incomes up to 80 percent of the area median income.

(k) *Drug-Related Amendments.* Section 8(c)(2)(B) would be amended to permit the Secretary to make rent adjustments (capped by the FMR for the area) for assisted projects located in a community where the prevalence of drug-related criminal activity has led to a substantial increase in a project's operating, maintenance and capital repair expenses. Such adjustments could cover the costs of maintenance, security, capital repairs and reserves that are needed for an owner to carry out an acceptable strategy. Rent comparability standards could be waived for such adjustments.

(l) *Revisions to Preference Rules.* Sections 8(d)(1)(A) and 8(o)(3) would be amended to further clarify the 10 percent local exception to the Federal preference rules governing tenant selection. PHAs would be required to establish a system of local preferences in writing and after public hearing to respond to local housing needs and priorities. Such needs and priorities may include assisting very low-income families who live in transitional housing assisted under the McKinney Act or who participate in a program designed to provide public assistance recipients with greater access to employment and education, avoiding breakup of families and preserving and strengthening families and achieving other objectives identified in cooperation with child welfare agencies and other appropriate human service agencies; or achieving other objectives of national housing policy affirmed by Congress. Individuals and families evicted from federally assisted housing for drug related criminal activity would remain ineligible from having a preference for 5 years unless the tenant successfully completes a rehabilitation program approved by the Secretary.

(m) *Section 8 Opt-Outs.* Section 8(c)(9) would be amended to (1) require an owner's opt-out notice to include a statement that the owner and the Secretary could agree to a contract renewal, thus avoiding a termination, and (2) require an owner to provide written notice to tenants within 30 days of the Secretary's decision on whether the termination is lawful.

### *Sec. 522—Authorizations*

The bill would authorize an additional $2,896,920,000 for fiscal year 1991, $3,019,003,000 for fiscal year 1992, and $3,139,764,000 for fiscal year 1993 in aggregate budget authority for Section 8 assistance. These funds, plus any other available funds, are allocated as follows:

[Amounts in thousands]

| Purpose | 1991 | 1992 | 1993 |
|---|---|---|---|
| Section 8—certificates | $1,185,600 | $1,233,024 | $1,282,345 |
| Property disposition | 324,570 | 343,759 | 357,510 |
| Loan management activities | 149,400 | 155,376 | 161,591 |
| Public Housing Replacement | 108,750 | 113,100 | 117,624 |
| Section 8—vouchers | 1,128,600 | 1,235,520 | 1,120,694 |

## SUBTITLE C—OPERATION BOOTSTRAP

### *Sec. 531—Operation Bootstrap Demonstration Program*

Section 531 would authorize a new demonstration to test the effectiveness of local strategies that coordinate the provision of Section 8 rental assistance and services provided under economic self-sufficiency programs.

(a) sets forth the purpose of this demonstation. It would authorize the demonstration for a five-year period.

(b) would authorize HUD to make housing voucher assistance available to public housing agencies (PHAs) participating in this demonstration. The Secretary would be directed to set aside not more than 5000 vouchers for the purpose of this demonstration.

(c) would establish the application requirements for the demonstration. The subsection would allow the Secretary to determine the application process, but would establish certain minimum requirements for content of the application.

Each application would contain a description of the size, characteristics, and needs of the families expected to participate in Operation Bootstrap; a description of the services and activities which would be provided from both public and private resources, including at least child care, transportation, personal and career counseling, education, case management, and job training and placement; a description of how the services and activities will be matched to the needs of families in the program; a description of the public and private resources expected to be made available to provide the activities and services; assurances satisfactory to HUD that the development of the services and activities under the Operation Bootstrap program has been coordinated with the JOBS and JTPA programs and any other relevant employment, training, and education programs in that area, and will continue to be implemented in coordination, in order to avoid duplication of services; assurances satisfactory to HUD that the services and activities will be provided in accordance with Operation Bootstrap program requirements; certification of consistency with the local housing strategy; evidence of coordination among public and private agencies; evidence of consultation with interested and expert parties; and other information or certifications that HUD requires. The form, content, and other submission requirements for the action plan would be specified in regulations issued by HUD.

(d) would allow the Secretary to establish selection criteria for a national competition to select demonstration participants. This subsection would establish certain required selection criteria and would allow the Secretary to add others. These required criteria would include: the ability of the applicant or designated service providers to provide the Operation Bootstrap services; the need for such a program in the area to be served; the quality of the proposed program; the extent to which the proposed funding for services and activities would be available; the extent to which the proposed program would meet the needs of those to be served; and other factors deemed necessary to HUD.

The subsection would also require the Secretary to consult with the Secretary of the Department of Health and Human Services and the Secretary of Labor in reviewing the services aspects of the applications.

This subsection would also restrict the amount of assistance that could be awarded within the jurisdiction of any one unit of general local government to no more than 10 percent of the total assistance available.

(e) would direct PHAs to take actions that encourage families to save funds, including the establishment of escrow savings accounts.

(f) would require PHAs to agree to: operate the program in accordance with any program requirements established by the Secretary; and conduct an ongoing assessment of the services and activities required by participants in the demonstration program. The Secretary would be permitted to establish any other terms and conditions necessary to carry out the program in an effective and efficient manner.

(g) would define the key terms of the demonstration: "eligible family", "very low income family".

(h) would require HUD to submit to Congress an interim report on the effectiveness of the demonstration no later than two years after the date of enactment of this Act; and a final report no later than 2 years after the end of the demonstration program.

(i) would require the Secretary to issue a notice establishing program requirements within 120 days of the date funds become available for obligation for the demonstration.

### *Sec. 532—GAO Study on Linking Federal Housing Assistance to Economic Self-Sufficiency Programs*

Section 532 would direct GAO to submit to the Congress a report evaluating the policy and administrative implications of requiring

State and local governments to tie the provision of Section 8 rental assistance to participation in economic self-sufficiency programs.

(a) would set forth the purpose of this GAO study. It would be due nine months after the date of enactment of this Act.

(b) would require that the report include an evaluation of past Federal programs that have attempted to link the provision of housing assistance and services and an assessment of the policy and administrative implications of allocating rental assistance only to localities that have a plan for providing such assistance only to families who agree to participate in economic self-sufficiency programs.

(c) would require GAO to consult with a wide range of Federal, State and local agencies and other acknowledged experts and interested parties.

(d) would define the term "economic self-sufficiency program."

## TITLE VI—HOUSING FOR PERSONS WITH SPECIAL NEEDS

### SUBTITLE A—SUPPORTIVE HOUSING FOR THE ELDERLY

### *Sec. 601—Supportive Housing for the Elderly*

(a) This section would amend section 202 of the Housing Act of 1959. Subsection references are to the revised section 202.

### *Housing Act of 1959: Sec. 202*

(a) *Purpose.* The purpose of this new section 202 program would be to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that is designed to accommodate special needs of the elderly and provides a range of services that are tailored to the needs of elderly persons.

(b) *General Authority.* HUD would be authorized to assist nonprofit organizations through capital advances and contracts for rental assistance. Such assistance can be used to finance construction, reconstruction or moderate or substantial rehabilitation of any structure which will be used for supportive housing. Related expenses such as cost of real property acquisition, site improvements, conversion, demolition and other expenses are also permitted.

(c) *Forms of Assistance.*

(1) *Capital Advances.* Capital advances would be non-interest bearing and would not have to be repaid as long as the housing remained available for very-low income persons. The amount of the advance would be subject to development cost imitations established in subsection (h).

(2) *Project Rental Assistance.* HUD would agree, through contracts with nonprofit organizations, to make monthly payments to cover any part of the costs of units occupied by very-low income persons (or those held for such occupancy) which is not met by tenant rents. The annual contract amount for any project is limited to the sum of initial project rentals plus utility costs. Contract amounts not used in any given year may be carried over for use in later years. HUD could raise the amount of rental assistance if needed.

(3) *Tenant Rent Contribution.* Very-low income persons would pay the highest of: (a) 30 percent of adjusted monthly income, (b) 10 percent of gross monthly income or (c) portion of welfare payment designated for shelter.

(d) *Term of Commitment.*

(1) *Use Limitations.* All units must be made available for occupancy by very-low income persons for at least 40 years.

(2) *Contract Terms.* The initial rental assistance contract would have a term of 20 years, and can be extended through appropriation acts for terms of at least five years. Commitments to extend expiring contracts may be made by HUD during the year before the date of expiration.

(e) *Applications.* HUD would allocate funds by evaluating applications submitted by private nonprofit organizations. These applications should contain: a description of the proposed housing; a description of the assistance needed by the applicant; a description of the resources that are expected to be made available to satisfy the matching requirement; a description of the categories of elderly persons who would be housed, the supportive services which would be provided, the method of delivery of the services, evidence of residential supervision in delivering the services to frail elderly, and any public or private sources of assistance for the services; a certification from an appropriate State or local agency that the services to be provided are designed to meet the needs of the persons who will live in the project; a certification from the public official responsible for submitting a housing strategy for the jurisdiction stating that the project is within the approved housing strategy plans; and other certifications or information required by HUD.

(f) *Selection Criteria.* HUD would establish criteria for the selection of applications. Such criteria would include: proven ability of applicant to develop and operate proposed housing; the need for supportive housing for the elderly in the area to be served; the extent to which the size and unit mix of the housing lends itself to be managed and operated efficiently by the applicant and ensures that the supportive services can be provided in an economical fashion; the extent to which the proposed design meets the special physical needs of elderly persons; the extent to which the applicant has shown that supportive services will be provided on a consistent, long-term basis; the extent to which the proposed design of the housing will accommodate the provision of the supportive services that are expected to be needed over the life of the building; and any additional factors determined by HUD as necessary to ensure the effective use of funds provided under this section.

(g) *Provision of Services.*

(1) HUD would ensure that the housing provides a range of services tailored to the needs of the people who will occupy the housing. Such service should include adequate meal service, housekeeping aid, personal assistance, transportation services, health-related services, and other services deemed essential for maintaining independent living. HUD could permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the

program or add significantly to the need for assistance under this section.

(2) *Application of Project Retrofit Requirements.* The requirements governing Project Retrofit in section 512(f) of this bill would be applied to section 202 housing intended to serve the frail elderly.

(3) *Local Coordination of Services.* HUD would ensure that owners of properties have the managerial capacity to assess the service needs of its tenants on an ongoing basis, coordinate and tailor the services to the needs of the tenants, and seek new sources of assistance in order to provide services on a long-term basis. Activities associated with this subsection—including any cost associated with the employment of a service coordinator in housing serving frail elderly persons—are eligible costs under section (c)(2). The provisions governing the responsibilities and qualifications of a service coordinator under section 512(c)(3) of this bill would apply to this section.

(h) *Matching Requirement.*

(1) *In General.* Each applicant would contribute at least 5 percent of the development cost calculated in accordance with subsection (i) to assure the applicant's commitment to the housing. Such contributions may be in the form of cash investment from private resources; the value of land or other real or personal property as appraised according to procedures acceptable to the Secretary; and the present value of supportive services that the applicant has committed to provide from private resources in accordance with this section

(2) *Reduction of Requirement.* HUD could reduce or waive the matching requirement for individual applicants where HUD finds that such waiver or reduction is necessary to achieve the purpose of this section provided that the applicant demonstrates to the satisfaction of the Secretary that it has the capacity to manage and maintain the housing in accordance with this section.

(i) *Development Cost Limitations.*

(1) *In General.* HUD would periodically establish development cost limitations for various types and sizes of supportive housing by market area. The notice of the cost limitations would be published in the Federal Register and would reflect the cost of construction, reconstruction or rehabilitation of supportive housing that meets applicable State and local housing and building codes; the cost of movables necessary to the basic operation of the housing, as determined by HUD; the cost of special design features necessary to make the house accessible; the cost of special design features necessary to make the individual dwelling units meet the physical needs of the elderly persons; the cost of congregate space necessary to accommodate the provision of supportive services; for newly constructed housing, the cost of meeting HUD's energy efficiency standards; and the cost of land, including necessary site improvement. To establish development cost limitations for a given market area, HUD would use data that reflect current prevailing costs of construction, reconstruction, or rehabilitation, and

land acquisition in the area. The term "congregate spaces" is defined.

(2) *Annual Adjustments.* HUD would adjust the limitations at least annually to reflect changes in construction, reconstruction or rehabilitation costs.

(3) *Incentives for Savings.* HUD would use the cost limitations to calcuate the amount of funds available to owners. As an incentive, owners whose actual development costs are less than the published cost limitations could retain 50 percent of the savings in a special housing account. The percentage would be increased to 75 percent for owners which add energy efficiency features which (i) exceed HUD's energy efficiency standards; (ii) substantially reduce the lifecycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience. The account would be used to supplement services provided to tentants or funds set-aside for replacement reserves, or for other HUD-approved purposes.

(4) *Design Flexibility.* HUD would be required to give, owners design flexibility.

(5) *Funds from other Sources.* Owners could voluntarily provide non-Federal funds for amenities and other appropriate design and construction features, if the cost of such amenities are not financed with an advance from HUD and are not considered in determining the amount of Federal assistance or rent contributed by tenants.

(j) *Tenant Selection.* An owner would be required to establish written tenant selection procedures which help improve housing opportunities for low income persons with disabilities and which are related to program eligibility and an applicant's ability to satisfy the requirements of the lease.

(k) *Miscellaneous Provisions.*

(1) *Technical Assistance.* HUD would provide technical assistance to applicants with limited resources, particularly minority applicants.

(2) *Civil Rights Compliance.* Owners would certify that assistance provided under this section would be in compliance with the Civil Rights Act of 1964, the Fair Housing Act, and other Federal, State, or local laws prohibiting discrimination and promoting equal opportunity.

(3) *Notice of Appeal.* HUD would be required to notify an owner at least 30 days before cancelling any reservation of assistance. The owner would be allowed to appeal within 30 days following receipt of notice. Such appeal, including review by HUD, would have to be completed not later than 45 days after the appeal was filed.

(4) *Labor Standards.* The Davis-Bacon Act would apply to the construction of supportive housing designed for use by 12 or more elderly persons. HUD could waive the application in cases where laborers or mechanics voluntarily donate their services without full compensation for the purpose of lowering the cost of construction. The amount saved would be credited to the corporation, cooperative, or public body or agency undertaking the construction, as determined by HUD.

(l) *Definitions.* The terms elderly person, frail elderly, owner, private nonprofit organization, State, Secretary, supportive housing for the elderly, and very low-income are defined in this section.

(m) *Authorizations.*

(1) *Capital Advances.* Amounts of $628 million for fiscal year 1991, $659 million for fiscal year 1992, and $685,360,000 for fiscal year 1983 are authorized for capital advances. Any amounts appropriated pursuant to these authorizations, repayments from advances, and any proceeds from notes or obligations issued under section 202 before this amendment would constitute a revolving fund to be used to carry out this program.

(2) *Project Rental Assistance.* To the extent approved in an appropriations act, HUD may reserve funds to enter into obligations of $346 million for fiscal year 1991, $363 million for fiscal year 1992, and $377,520,000 for fiscal year 1993 to provide project rental assistance.

(The following section numbers refer to sections of S. 566, not Section 202 of the Housing Act of 1959:)

(b) *Conforming Amendment.* Section 202 would be exempted from coverage under the fair share provisions of Section 213 of the Housing and Community Development Act of 1974.

(c) *Effective Date and Applicability.*

(1) HUD must, upon the request of an owner, apply the amendments made by this section to housing for which a loan reservation was made under section 202 before the date of enactment of this Act and for which the loan has not been executed or recorded. In the absence of a request, such housing would continue to be subject to the same provisions as were in effect when the applicable loan reservation was made.

(2) HUD must, when responding to an owner's request under paragraph (1) apply such portions of amounts obligated at the time of loan and Section 8 reservation as is required to bring older Section 202 housing under these amendments. HUD shall make any remaining portion available for other housing under this section.

(d) *Expedited Financing and Construction.* The section would give HUD the authority to expedite the development of qualified Section 202 projects. The section would authorize HUD to make two types of adjustments that are needed to expedite development; adjustments and waivers to the maximum loan amounts, and adjustments to the fair market rents. HUD would still need to find that applicable cost controls have been met. Qualified projects would include projects located in high cost areas for which a loan reservation was made under section 202 at least three years before the date of enactment of this Act but for which no loan ha been executed or recorded.

*Sec. 602—Project Retrofit*

(a) *Purpose.* The purpose of Project Retrofit is to enable frail elderly persons residing in federally assisted housing to live with dignity and independence, avoiding unnecesary institutionalization by:

(1) retrofitting individuals units and common areas to meet the special physical needs of the residents; (2) creating or rehabilitating congregate space to accommodate supportive services; (3) providing transitional funding for qualifying support services which overwise could not be provided; and (4) improving the capacity of management to assess the service needs of eligible residents, coordinate the provision of supportive services that meet the needs of eligible residents and ensure the long-term provision of such services.

(b) *Authorization to Provide Assistance.* HUD is authorized to provide assistance in the form of grants to federally-assisted housing for the elderly so that their physical requirements and service needs are met. Only owners who demonstrate that such assistance is needed to provide qualifying supportive services that will receive long-term support from sources other than this bill will be eligible for this assistance.

(c) *Eligible Activities.*

(1) *Retrofit and Renovation.* Assistance may be provided for: (A) retrofitting individual units to meet the physical needs of current or future residents, (B) renovation necessary to assure that public and common areas are readily accessible and usable, (C) renovation, conversion, or combination or vacant dwelling units to provide congregate space to accommodate the provision of supportive services to eligible residents, (D) renovation of existing congregate space to accommodate such provisions; and (E) construction or renovation of facilities to create conveniently located congregate space to accommodate such provision. The term "congregate space" is defined as including space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatients health facilities or other essential service facilities.

(2) *Transitional Support for Services.* Assistance may be provided for: (A) transitional provision of supportive services if the owner can demonstrate that the services are needed to help eligible residents live independently; that the onwer has tried diligently to obtain the funds elsewhere; and, that long-term funding for the services will be available from other sources; and (B) the renewal of contracts under the Congregate Housing Services Act of 1978. Assistance made under this paragraph of the bill would be phased out, over 3 years.

(3) *Service Coordinator.* Assistance may be provided for the employment of service coordinators who may be responsible for (A) working with the professional assessment committee on an ongoing basis to assess the service needs of eligible residents; (B) working with service providers and the professional assessment committee to tailor the provision of services to the needs and characteristics of eligible residents; (C) mobilizing public and private resources to ensure that identified qualifying supportive services can be funded over the required time period; (D) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and (E) performing such other duties and functions that HUD deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence. HUD must establish such

minimum qualifications and standards for the position of Service coordinator as is deemed necessary to ensure sound management. HUD may fund the employment of service coordinators by using amounts appropriated under subsection (k) and by permitting owners to use existing sources of funds including but not limited to excess project reserves.

(d) *Application.* HUD would allocate funds among approved applications which would contain the following: (1) a description of supportive services to be provided to residents over the next 5 years (or such longer period that HUD determines is appropriate to coincide with substantial rehabilitation); (2) a firm commitment from one or more sources of assistance ensuring that the services will be provided for at least one year; (3) a description of the sources that will provide supportive sources over the 5-year period, including State and local governments, private foundations, and nonprofit organizations; (4) a certification from a State or local agency assuring that the supportive services to be provided are needed by eligible residents, and that there is reasonable likelihood that they will be provided as stated; (5) evidence that the owner has established a professional assessment committee; (6) a description of the assistance that the project sponsor seeks; (7) a description of any fees necessary for the provisions of services; and (8) any other information needed by HUD.

(e) *Program Selection Criteria.* In selecting applicants for assistance, HUD will establish certain criteria including: ability of owner to provide quality supportive services; need for such services in the housing; the extent to which any renovation and conversion will foster the provision of services; the extent to which the owner has demonstrated that services will be provided over the required time period; the extent to which the owner has a good record of maintaining and operating housing for the elderly; and other factors deemed necessary by HUD.

(f) *Provision of Services.*

(1) *Establishment of Professional Assessment Committee.* Each owner would be required to establish a professional assessment committee composed of at least three qualified professional persons. This committee would identify residents eligible for supportive services and would designate services appropriate for each eligible resident. Residents would be treated fairly and with confidentiality.

(2) *Participation by Other Residents.* Residents other than eligible residents may participate in a supportive service program (receiving capital or operating assistance under this section) if the owner determines that their participation would not adversely affect the cost-effectiveness or operation of the program. HUD may also permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this section.

(3) *Fees.* Owners could charge fees for meals and other supportive services. The fees would have to be reasonable, be no more than the cost of the service, and be calculated on a slid-

ing scale related to income. Fees for residents who are not eligible residents would not have to be on a sliding scale.

(4) *Resident Eligibility.* HUD would establish standards and guidelines for eligiblity after consultation with HHS and organizations representing the elderly.

(g) *Reports.* Owners would submit to HUD an annual report evaluating the use of funds they have received, and HUD would submit an annual report to Congress on the effectiveness of the program in the given fiscal year.

(h) *Reserve Fund.* HUD could reserve up to 5 percent of the annual amount made available in each fiscal year to supplement grants made to owners, if HUD determines that such supplemental aid would be required to maintain an adequate level of services for eligible residents.

(i) *Miscellaneous Provisions.*

(1) *Participation of Residents.* Owners would be required, to the extent practicable, to employ residents for the delivery of services. Such residents would be paid at the Federal, State, or local minimum wage rate, or, prevailing rates of pay for persons employed in similar public occupations by the same employer. The highest of these rates would prevail.

(2) *Disregard of Service as Income.* Services provided to eligible residents would not be treated as income for any other program or provision of Federal or State law.

(3) *Residence.* Persons receiving services would be considered residents of their own households, not residents of a public institution.

(j) *Definitions.* Elderly person, eligible housing for the elderly (public housing, section 202, section 236, section 221 (d)(3), section 221 (d)(5), rent supplement, section 8, and section 515 programs), eligible resident, frail elderly, person with disabilities, owner, public housing, public housing agency, qualifying supportive services, Secretary, and temporarily disabled are all defined in this section.

(k) *Authorization.* The bill authorizes $50 million for fiscal year 1991, $52 million for fiscal year 1992, and $54,080,000 for fiscal year 1993 with all appropriated amounts to remain available until expended.

(l) *Conforming Amendment.* The public housing operating subsidy authority in section 9 of the U.S. Housing Act of 1937 is amended to provide that operating subsidies would not be reduced because a PHA renovates, converts, or combines one or more units to create congregate space to accommodate supportive services under Project Retrofit.

### *Sec. 603—HOPE for Elderly Independence*

(a) *Purpose.* This section would establish a 5-year demonstration program to test the effectiveness of combining housing vouchers and supportive services to assist frail elderly individuals to live independently.

(b) *Housing Voucher Assistance.* This subsection would authorize HUD to make up to 1,500 incremental rental housing vouchers available to participating PHAs participating. PHAs could require participants to live within a particular geographic area. This subsection would also require PHAs to offer frail elderly individuals continued housing assistance through the agency's regular voucher program.

(c) *Supportive Services Requirements; Matching Funding.*

(1) *Federal, PHA and individual contributions.* This subsection would establish the funding requirements for the supportive services to be provided. The PHA would estimate the cost of these services and the Secretary would approve such costs. These costs would be paid for as follows: HUD would pay 40 percent from funding available for this demonstration; the PHA would pay at least 50 percent from sources other than the demonstration; and each frail elderly individual would pay 10 percent of the costs of the supportive services the individual receives.

(2) *Provision of services for entire demonstration.* The PHA would be required to provide appropriate services to individuals participating in the program throughout the demonstration period. While a PHA would be prohibited from using more than one-fifth of the Federal assistance provided for supportive services under the demonstration in any one year, it would be authorized to use any amounts from any prior year in which the PHA did not use one-fifth of the available Federal assistance.

(3) *Calculation of the match.* The Secretary would determine the items that could be used—including staff salaries—for the matching requirement.

(d) *Applications.* This subsection would establish the application requirements for the demonstration. A PHA would be required to apply for both housing vouchers and services funding. The Secretary would determine the application process, but would establish certain minimum requirements for content of the application including:

(1) an application for voucher assistance, in the form prescribed under that program;

(2) a description of the population that would be served and their housing and supportive services needs;

(3) a description of the methods that would be used to determine whether an individual is frail and to select individuals to participate;

(4) a statement from the PHA that it will create a Professional Assessment Committee (PAC) or work with another entity to identify and provide the necessary services to allow participants to remain living independently;

(5) a description of the mechanisms that the PHA would use to develop each individual's housing and supportive services plan and to monitor the individual's progress in meeting the plan;

(6) identification of the service provider and details about their qualifications;

(7) a description of the supportive services the PHA would make available to the frail elderly individuals to be served, the estimated costs, and a description of the resources which would be used to meet the matching requirement;

(8) assurances that the supportive services would be provided for the full five-year demonstration period;

(9) a plan for coordinating the provision of housing assistance and supportive services.

(10) a description of how the PHA would monitor the provision of supportive services, including the reasonableness of the costs and the adequacy of these services in meeting the needs of the frail elderly individuals;

(11) a plan for continuing the provision of supportive services to frail elderly individuals who would continue to receive voucher assistance after the end of the demonstration period;

(12) a statement that the application has been developed in consultation with the area agency on aging under title III of the Older American Act and that the public housing agency will periodically consult with the area agency during the demonstration.

(e) *Selection.*

(1) The Secretary would establish selection criteria for a nationl competition with would include:

(A) the ability of the PHA to develop and operate the proposed housing voucher and supportive services program;

(B) the need for a program providing both housing assistance and supportive services for frail elderly individuals in the area;

(C) the quality of the proposed program for providing supportive services;

(D) the extent to which the proposed matching funding for supportive services would be available;

(E) the extent to which the proposed program would meet the needs of those to be served; and

(F) other factors which the Secretary determines are appropriate.

(2) The Secretary would consult with the Secretary of HHS in reviewing the applications.

(3) This subsection would also restrict the amount of assistance that could be awarded within the jurisdiction of any one unit of general local government to no more than 10 percent of the total assistance available.

(f) *Required agreements.* This subsection would require PHAs to agree to:

(1) operate the program in accordance with any program requirements established by the Secretary;

(2) conduct an ongoing assessment of the voucher and supportive services assistance required by the individuals participating in the program;

(3) assure that adequate services are provided at a reasonable cost; and

(4) comply with any other terms and conditions necessary to carry out the program in an effective and efficient manner.

(g) *Definitions.* This section would define the terms frail elderly person, professional assessment committee, public housing agency, Secretary, and supportive services.

(h) *Report.* The Secretary wuold submit to Congress an interim report within two years of enactment evaluating the program and would submit a final report within two years after the termination of the program.

(i) *Authorization of Appropriations.* An amount of $10 million, to become available in fiscal year 1991 and remain available until expended, would be authorized for supportive services under this demonstration.

(j) *Implementation.* HUD would be required to issue a notice containing requirements for the program within 120 days after funds become available. This section would also require HUD to issue final regulations within eight months of the notice.

## SUBTITLE B—SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

### *Sec. 611—Supportive Housing for Persons with Disabilities*

(a) *Purpose.* The purpose of this section would be to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that is designed to accommodate the special needs of such persons with disabilities and that provides supportive services that address the individual health, mental health, and other needs of such persons.

(b) *General Authority.* HUD could assist private nonprofit organizations by providing (1) capital advances, and (2) contracts for rental assistance. The assistance could be used to finance acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation. It could also be used for the cost of acquisition, site improvement, conversion, demolition, relocation, and other necessary expenses.

(c) *General Requirements.* HUD would be required to take any necessary actions to ensure that (1) assistance wil be used to meet the special needs of persons with disabilities by providing a variety of housing options, ranging from group homes and independent living facilities to dwelling units in multifamily housing, condominium housing and cooperative housing; and (2) supportive housing will provide residents with supportive services that address their individual needs, provide opportunities for optimal independent living and participation in normal daily activities and facilitate access to the community and suitable employment opportunities.

(d) *Forms of Assistance.*

(1) *Capital Advances.* Capital advances would be non-interest bearing, without obligation to repay so long as the housing remains available for very low-income persons with disabilities. The amount of the advance would be subject to the development cost limit in subsection (h).

(2) *Project Rental Assistance.* Rental assistance contracts would obligate HUD to make monthly payments to cover costs not covered by tenant rents. The maximum annual contract amount could not exceed the sum of the initial annual project rentals plus initial utility allowances. Contract amounts not used in any given year, may be carried over for use in later years. HUD could raise the amount of rental assistance if needed. In the case of an intermediate care facility (ICF) which is the residence of persons assisted under title XIX of the Social Security Act (SSA), project income would include the

same amount as if the persons were being assisted under title XVI of that Act.

(3) *Tenant Rent Contribution.* Tenants would pay the highest of (A) 30 percent of adjusted income, (B) 10 pecent of gross income, or (C) welfare rent, except that the gross income of a person in an ICF assisted under title XIX of the SSA would be the same as if the person were being assisted under XVI of the SSA.

(e) *Term of Commitment.* The units would have to be made available for very low-income persons with disabilities for at least 40 years. The initial rental assistance contract would have a term of 20 years, and would be extended for terms of at least five years, subject to availability of budget authority. Commitments to extend expiring contracts may be made by HUD during the year before the date of expiration.

(f) *Applications.* HUD would allocate funds by evaluating applications submitted by private nonprofit organizations. These applications would contain: a description of the housing; a description of the assistance sought; a supportive services plan that contains a description of the needs of the persons with disabilities that the housing is expected to serve, assurances that residents will receive supportive services based on their individual needs, evidence of the applicant's (or a designated service provider's) experience in providing such supportive services, a description of the manner in which such services will be provided to such persons, including evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services, and the extent of State and local funds available to assist in the provision of such services; a certification that the services are well designed to serve the special needs of the prospective tenants; assurances that the applicant will own or have control of an acceptable site within six months after notification of an award for assistance; a certification that the project is consistent with the approved housing strategy (see section 105 of the bill); and other information or certifications that HUD requires.

(g) *Selection Criteria.* HUD would establish selection criteria for assistance which would include: the applicant's ability to develop and operate the proposed housing; the need for housing for persons with disabilities in the area to be served; the extent to which the proposed design would meet the special needs of persons with disabilities; the extent to which the applicant has demonstrated that the necessary supportive services, will be provided on a consistent, long-term basis; the extent to which the proposed building design will accommodate the provision of the services; the extent to which the applicant has control of the site of the proposed housing; and other factors deemed necessary by HUD.

(h) *Development Cost Limitations.*

(1) *In General.* HUD would periodically establish development cost limitations for various types and sizes of supportive housing by market area. The notice of the cost limitations would be published in the Federal Register and would reflect: the cost of acquisition, construction, reconstruction or rehabilitation of supportive housing that meets applicable State and local housing and building codes, and conforms with the design

characteristics of the neighborhood in which it is be located; the cost of movables necessary to the basic operation of the housing, as determined by HUD; the cost of special design features necessary to make the house accessible; the cost of special design features necessary to make the individual dwelling units meet the special needs of the persons with disabilities; the cost of congregate space necessary to accommodate the provision of supportive services, if the housing is newly constructed, the cost of meeting HUD's energy efficiency standards, and the cost of land, including necessary site improvement. To establish development cost limitations for a given market area, HUD would use data that reflect current prevailing costs of acquisition, construction, reconstruction, or rehabilitation, and land acquisition in the area.

(2) *Annual Adjustments.* HUD would adjust the limitations at least annually to reflect changes in acquisition, construction, reconstruction or rehabilitation costs.

(3) *Incentive for Savings.* HUD would use the cost limitations to calculate the amount of funds available to owners. As an incentive, owners whose actual development costs are less than the published cost limitations could retain 50 percent of the savings in a special housing account. The percentage would be increased to 75 percent for owners which add energy efficiency features which (i) exceed HUD's energy efficiency standards; (ii) substantially reduce the lifecycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience. The account would be used to supplement services provided to tenants or funds set-aside for replacement reserves, or for other HUD-approved purposes.

(4) *Funds from other Sources.* Owners could voluntarily provide non-Federal funds for amenities and other appropriate design and construction features, if the cost of such amenities are not financed with an advance from HUD and are not considered in determining the amount of Federal assistance or rent contributed by tenants.

(i) *Tenant Selection.*

(1) An owner would be required to establish written tenant selection procedures which are designed to help improve housing opportunities for low income persons with disabilities and which are related to program eligibility and an applicant's ability to satisfy the requirements of the lease.

(2) Notwithstanding other provisions of law, the Secretary could permit an owner to restrict occupancy to persons with similar disabilities.

(j) *Miscellaneous Provisions.*

(1) *Technical Assistance.* HUD would provide technical assistance to applicants, particularly minority applicants.

(2) *Civil Rights Compliance.* Owners must certify that assistance would be provided in accordance with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other Federal, State, and local law prohibiting discrimination and promoting equal opportunity.

(3) *Site Control.* Applicants may obtain ownership or control of a suitable site different from the site initially specified. If an

applicant fails to obtain ownership or control within one year after notification of an award for assistance, HUD would recapture and reallocate the assistance.

(4) *Owner Deposit.* HUD may require owners to deposit up to $10,000 in a special escrow account to assure commitment to the housing.

(5) *Notice of Appeal.* HUD would be required to notify an owner at least 30 days before cancelling any reservation of assistance. The owner would be allowed to appeal within 30 days following receipt of notice. Such appeal, including review by HUD, would have to be completed not later than 45 days after the appeal was filed.

(6) *Labor Standards.* The Davis-Bacon Act would apply to the construction of supportive housing designed for use by 12 or more persons with disabilities. HUD could waive the application in cases where laborers or mechanics voluntarily donate their services without full compensation for the purpose of lowering the cost of construction. The amount saved would be credited to the corporation, cooperative, or public body or agency undertaking the construction, as determined by HUD.

(k) *Definitions.* The terms group home, person with disabilities, Supportive housing for persons with disabilities, independent living facility, owner, private nonprofit organization, State, Secretary, very low-income are defined in this section.

(l) *Authorizations.*

(1) *Capital Advances.* The bill would authorize for funding of capital advances (in accordance with subsection (d)(1)), $258 million for fiscal year 1991, $271 million for fiscal year 1992, and $281,840,000 for fiscal year 1993. Amounts appropriated pursuant to these authorizations, repayments of advances, and proceeds from notes or obligations issued under this section before enactment of this bill would constitute a revolving fund to be used to carry out the program.

(2) *Project Rental Assistance.* Subject to approval in an appropriations Act, HUD could reserve authority to enter into obligations aggregating $234 million for fiscal year 1991, $246 million for fiscal year 1992, and $25,840,000 for fiscal year 1993.

(m) *Effective Date and Applicability.*

(1) HUD must, upon the request of an owner, apply these amendments made by this section to housing for which a loan reservation was made under section 202 before the date of enactment of this Act and for which the loan has not been executed or recorded. In the absence of a request, such housing would continue to be subject to the same provisions as were in effect when the applicable loan reservation was made.

(2) HUD must, when responding to an owner's request under paragraph (1) apply such portions of amounts obligated at the time of loan and Section 8 reservation as is required to bring older Section 202 housing under these amendments. HUD shall make any remaining portion available for other housing under this section.

## SUBTITLE C—SUPPORTIVE HOUSING FOR THE HOMELESS

### *Sec. 621—Amendments to the McKinney Act*

This section revises Title IV of the Stewart B. McKinney Act for homeless assistance. The following would be a revision of Title IV.

## McKINNEY ACT: TITLE IV—HOUSING ASSISTANCE

## MC KINNEY ACT: SUBTITLE A—GENERAL PROVISIONS

### *McKinney Act: Sec. 401—Purpose*

The purpose of Title IV of the McKinney Act would be to expand the Federal commitment to alleviate homelessness by providing States and localities with resources to: help very low-income persons and families avoid becoming homeless; meet emergency shelter needs of homeless persons and families; provide transitional housing to facilitate the movement of homeless persons and families to independent living; provide specialized permanent housing for homeless persons who require a supportive environment; and, provide supportive services to help homeless persons and families lead independent and dignified lives.

### *McKinney Act: Sec. 402—Definitions*

The following terms are defined in Section 402: assistance, emergency activities, families, grantee, person with disabilities, homeless person with disabilities, locality, operating cost, outpatient health services, private nonprofit organization project, project sponsor, Secretary, State, supportive services, unit of general local government, and very low-income families.

### *McKinney Act: Sec. 403—General Authority*

(a) *Grants for Homeless Housing Assistance.*

(1) *In General.* HUD would make grants to States and units of local general government (and to other eligible applicants under section 405) to carry out activities to meet the emergency, transitional, and permanent housing needs of the homeless, and help very low-income families avoid becoming homeless. To be eligible for a grant, a jurisdiction would have to obtain an approved housing strategy (or approved abbreviated housing strategy) under section 105. A grantee would have to carry out activities through contracts with project sponsors, except that a State grantee would have to obtain approval of the local government for the locality where the project is located before entering into such contracts.

(2) *Allocation of Resources.*

(A) *Formula Grants.* HUD would allocate 80 percent of appropriated amounts in accordance with a formula established under section 404, of which 70 percent would be allocated to local governments and 30 percent among States. A grantee would be able to use the grants for approved activities including: provision of assistance to help very low-income families avoid becoming homeless (see sec. 411); development of emergency homeless shelters (see sec. 412); development of transitional housing (see sec. 413); development of permanent housing for homeless persons with disabilities (see sec. 414); provision of assistance to help very low-income families living in emergency shelters and transitional housing make the transition to permanent housing (see sec. 415); and, any other activities that HUD develops in cooperation with grantees (see sec. 416). HUD would be required to establish guidelines and standards for approved activities. Grantees would be permitted to refine and adapt these standards and guidelines as made necessary by local circumstances. A grantee may not use more than 30 percent of the grants for emergency activities unless HUD finds that other approved activities are already being carried out in the jurisdiction with other resources.

(B) *Discretionary Allocation.* HUD would allocate 20 percent of the appropriated amounts among appropriate applications to supplement public and private resources available to meet the urgent needs of homeless persons in areas with unusually high incidence of homelessness.

(b) *SRO Renovation.* HUD would provide Section 8 rental assistance to public housing agencies for the renovation of single room occupancy dwellings. The extent of the assistance is limited to amounts approved in appropriation acts.

*McKinney Act: Sec. 404—Allocation Formula*

(a) *Establishment of Formula.* HUD would issue regulations to establish an allocation formula that reflects each jusdiction's share of the need for housing assistance for the homeless as identified by (1) objective measures of the incidence of homelessness; (2) the relation between the supply of affordable housing for very low-income families and the number of such families in the jurisdiction; (3) poverty; and (4) housing overcrowding.

(b) *Allocation Rules.*

(1) *Minimum Local Allocation.* HUD would be required to allocate amounts available for formula allocation to local governments so that, when all amounts are allocated by the formula, only those jurisdictions allocated $200,000 or more would receive an allocation. A jurisdiction receiving a formula allocation would be eligible if its formula allocation is at least $250,000 or if: (A) HUD finds that the jurisdiction is the city with the greatest population in a metropolitan area and has demonstrated capacity to carry out the provisions; and the State has authorized HUD to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula allocation and $250,000 or the State or jurisdiction has made available from the State's or jurisdiction's own resources an equal amount for use by the jurisdiction in conformance with this subtitle; or (B) geographically contiguous local governements which have received a formula allocation have formed a consortium that HUD determines to have sufficient authority and administrative capability to act on behalf of its members. Such a consortium would be considered as a local government. Under subparagraph (A) the jurisdiction's formula allocation for the fiscal

year would subsequently be deemed equal to the jurisdiction's amount plus the amount transferred by the State or make available by the State or local jurisdiction. The formula allocation of a consortium would be equal to the total of its members' allocations.

(2) *Minimum State Allocation.*

(A) If the formula would allocate less than $250,000 to any State, the State would increase $250,000, and the increase would be deducted pro rate from other State's allocations.

(B) If no local government within a State receives an allocation under paragraph (1), the Secretary may increase the State's allocation by $125,000 after determining that such increase is necessary to provide appropriate levels of housing assistance to homeless persons and families within the State. Priority for use of such additional allocation would go to the provision of homeless assistance in cities within the States that have the largest population in a metropolitan area. The increase would be deducted pro rata from local government allocations.

(3) *Grantee Status.* Once a State or local government becomes a granted, it would remain eligible for grants in subsequent years unless its status were revoked.

(4) *Revocation.* HUD would be able to revoke a jurisdiction's status as grantee if (A) after reasonable notice and opportunity for hearings, HUD determines that the jurisdiction is unwilling or unable to carry out the provision of this subtitle, or (B) the jurisdiction's formula allocation is less than $250,000 for 3 consecutive years, less than $225,000 for 2 consecutive years, or less than $200,000 for 1 year.

(c) *Initial Allocation of Assistance.* HUD would allocate funds and notify each jurisdiction of its formula allocation amount within 30 days after funds are appropriated. If a local jurisdiction is not eligible to receive grants because its allocation amount is too low, HUD would have to advise the jurisdiction of how it can become eligible.

(d) *Distribution of Assistance by a State.* Each State would distribute its allocation of assistance in accordance with the need as shown in its housing strategy, and would coordinate its efforts where assistance is distributed to a unit of general local government that is also a grantee.

(e) *Allocation to Territories.* In addition to other allocations, HUD would make such allocations as appropriate to Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands and any other territory or possession of the United States.

*McKinney Act: Sec. 405—Discretionary Allocation*

(a) *In General.* HUD would, to the extent of funds made available under the discretionary allocation pot (Section 403(a)(2)(B)) or reallocated under subsection 408(e), make grants to eligible applicants to supplement public and private resources available to meet the urgent needs of homeless persons in areas with unusually high incidence of homelessness. The term "eligible applicants" is defined for purposes of this section to mean grantees and private nonprofit organization. A grantee would not be allowed to submit an application if the Secretary found that the grantee was not in compliance with sections 406 and 408.

(b) *Eligible Activities.* Assistance could be used for approved activities under Subtitle B and for the following additional activities: (1) the purchase, lease, rehabilitation, renovation, operation, or conversion of facilities to assist the homeless; (2) the transitional provision of supportive services designed to meet the special needs of homeless persons, such assistance to be phased out in 3 years or less; and (3) the provision of supplemental assistance to emergency shelters or transitional housing assisted under this title if such assistance is required to meet the special needs of homeless persons residing in such projects.

(c) *Applications.* HUD would allocate funds by evaluating applications submitted by eligible applicants. HUD would establish requirements for the form and submission of applications. Such applications would contain: a description of the proposed activities; a description of the size and character of the population to be served by the proposed activities; a description of the public and private resources that are expected to be available in connection with the proposed activities; assurances that the assisted property (except for property used as emergency shelter) would be operated for at least 10 years for the purpose specified in the application; evidence that the proposed activities would meet urgent needs of homeless persons that are not being met from other public and private sources; for nonprofit applicants, a certification from the public official responsible for submitting a housing strategy in accordance with section 105 of the National Affordable Housing Act that the application is consistent with the approved housing strategy; and any other information or certifications deemed necessary by HUD.

(d) *Selection Criteria.* HUD would establish selection criteria which would take into account: the extent to which the proposed activities meet urgent needs of homeless persons that are not being met from other public and private sources; the extent to which the area to be served has an unusually high incidence of homelessness; the extent to which the proposed activities would provide assistance to homeless persons who are most difficult to serve; the extent to which the proposed activities would make available as housing for homeless persons publicly-owned property; the extent of administrative coordination in the area to be served; the ability of the applicant to carry out the proposed activities; and other appropriate factors determined by HUD.

(e) *Special Rules for Supplemental Assistance For Facilities to Assist the Homeless.* (1) HUD may not provide supplemental assistance to homeless facilities previously assisted under this title unless it determines that the appliant has made reasonable efforts to use all available local resources and resources available under other provisions of this title, and that other resources are not sufficient or not available to carry out the purpose for which this assistance is sought. (2) No more than $10,000 of any grant or advance may be used for outpatient health services (excluding the cost of any structural rehabilitation or conversion to accommodate the provision of services). (3) HUD and HHS would be required jointly to establish guidelines for the appropriateness of proposed outpatient health services.

(f) *Administrative Provisions.* The total amount allocated to a grantee under a discretionary allocation could not exceed the grantee's formula allocation for the fiscal year.

### *McKinney Act: Sec. 406—Responsibilities of Grantees and Project Sponsors*

(a) *Matching Requirements.* Each grantee would be required to supplement grants with an equal amount of funds from non-Federal sources. Matching funds could include the value of donated materials or buildings, the value of a lease, salary paid to staff, and value of time and services contributed by volunteers. Each grantee shall certify in writing its compliance to this section by describing the sources and amounts of such supplemental funds.

(b) *Housing Quality.* Each grantee would assure that assisted housing is decent, safe, and sanitary, and, when appropriate, meets all applicable State and local housing and building codes and licensing requirements.

(c) *Consistency with Housing Strategy.* Each grantee would certify that activities undertaken by project sponsors with grant funds are consistent with the grantee's housing strategy.

(d) *Assistance to Homeless Persons.* Each grantee would certify that each project sponsor would administer, in good faith, a policy designed to ensure that any shelter or housing assisted under this subtitle is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

(e) *Limitation on Use of Funds.* Each grantee would certify that neither assistance received under this title nor supplemental State or local assistance will be used to replace other public funds previously used, or designated for use, to assist the homeless.

(f) *Civil Rights Compliance.* Each grantee would certify that the grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964, and the Fair Housing Act, and that the grantee will affirmatively further fair housing.

(g) *Reports.* Each grantee would submit a performance and evaluation report to HUD on the use of assistance, with an assessment of the relationship of such use to the grantee's housing strategy. The report would include information on the number of homeless served and the reasons for their homelessness. The report would also specify the amounts that the grantee made available (from its formula allocation) for each approved activity under subtitle B. The report would be made available to the public so that interested parties may comment on the findings. Any comments received would be made a part of the submitted report. HUD would consult with national associations of States, local governments, and other housing interests to develop a uniform method of record keeping, performance reporting, and audit requirements.

(h) *Site Control.* Each grantee or sponsor would furnish assurances that it would own or control the site of a proposed project within 6 months of notification of an award for grant assistance. A suitable site different from the site specified in the application satisfies this requirement. If control of a site is not obtained within one year after notification of the award of the grant, HUD would recapture and reallocate the grant.

(i) *Prevention of Undue Benefits.* HUD could prescribe terms and conditions to prevent project sponsors from unduly benefiting from the sale or disposition of projects constructed, rehabilitated, or acquired with assistance, other than a sale or disposition resulting in the use of the project for the direct benefit of very low-income persons.

(j) *Additional Requirements.* HUD could establish other requirements deemed necessary to assure that grantees carry out activities in an efficient manner.

### *McKinney Act: Sec. 407—Strategy to Eliminate Welfare Hotels and Unfit Transient Facilities*

(a) *In General.* HUD would, within 4 months of the date of enactment, identify the States and units of general local government which use welfare hotels and other unfit transient facilities as housing for homeless families with children and develop and publish in the Federal Register a strategy to eliminate such use by January 1, 1992. In developing such a strategy, HUD would consult with the Department of Health and Human Services, the Federal Emergency Management Agency, other appropriate Federal agencies, appropriate States and units of general local government, major organizations representing homeless persons and other experts.

(b) *Contents of Strategy.* The strategy would specify: (1) actions to be taken to ensure that families with children currently residing in welfare hotels or unfit transient facilities will make a timely transition to permanent housing; (2) actions to be taken to provide sufficient emergency, transitional and permanent housing to preclude the future use of welfare hotels or unfit transient facilities as housing for homeless families with children; and (3) changes in Federal, State and local statutes and regulations that are needed to eliminate the use of welfare hotels and unfit transient facilities as housing for homeless families with children.

(c) *Implementation of Strategy.* HUD would be given the following additional resources and powers to ensure that the strategy is carried out by January 1, 1992: (1) such preferences in the allocation of resources under section 405 as the Secretary determines to be appropriate; (2) such limitations upon a jurisdiction's discretion to allocate resources among approved activities under this title as the Secretary determines to be appropriate; (3) such expedited decisionmaking or waivers or revisions of regulatory requirements under other provisions of Federal law as the Secretary determines to be appropriate; and (4) such additional constraints on the use of funds under other provisions of Federal law as the Secretary determines to be appropriate.

(d) *Definitions.* Two terms—"unfit transient facility" and "welfare hotel"—are defined for purposes of this section.

### *McKinney Act: Sec. 408—Administrative Provisions*

(a) *Limitation on Administrative Expenses.* A grantee could not use more than 5 percent of assistance for administrative purposes.

(b) *Income Eligibility.* To be eligible a homeless person would have to be very low-income (not exceeding 50 percent of median income for the area).

(c) *Flood Elevation Requirements.* Flood protection standards could not be more restrictive than standards which apply to other HUD programs.

(d) *Applicability of Section 104(g) of the Housing and Community Development Act of 1974.* The provisions, regulations, and procedures under section 104(g) of the 1974 Act would apply to assistance and projects under this title. Section 104(g) provides for delegation of environmental review and historic preservation responsibilities.

(e) *Recapture and Reallocation of Funds.*

(1) *Formula Reallocations.* If a State or unit of general local government receiving a formula allocation fails to obtain approval of its housing strategy, HUD would reallocate any funds reserved for that jurisdiction as follows: (A) If a State failed to obtain approval of its housing strategy, HUD would make the State's formula allocation available under the discretionary requirements in section 405 and would give priority to funding projects that assist the homeless population within the State; (B) If a local government failed to obtain approval of its housing strategy, HUD would reallocate that locality's formula to the State if the State's housing strategy has been approved. The State, in turn, would give priority to funding projects that assist the homeless in that locality; (C) If both the local government and the State in which it is located have failed to meet approval with its housing strategy, HUD would make the locality's formula allocation available under the discretionary requirements in accordance with section 405 and would give priority to funding projects that assist the homeless population within the locality.

(2) *Noncompliance.* If a grantee is in noncompliance with any program requirements, HUD may recapture the assistance. The assistance would then be reallocated under the discretionary provisions of section 405.

(3) *Other Reallocations.* If some discretionary funds remain unused after the final funding round, HUD would reallocate those amounts for use under subtitle C, Section 8 SRO Occupancy.

(f) *GAO Audits.* GAO would be permitted to audit the financial transactions of grantees and sponsors which relate to Federal assistance provided them. GAO would have access to pertinent books, accounts and records.

*McKinney Act: Sec. 409—Authorization of Appropriations.*

The bill would authorize $220 million for fiscal year 1991, $228,800,000 for fiscal year 1992, and $237,952,000 for fiscal year 1993.

*McKinney Act: Sec. 410—Reports to Congress.*

HUD would submit an annual report to Congress summarizing the activities under the title and setting forth findings, conclusions, and recommendations. The report will also summarize and assess the results of the performance reports and will be submitted no later than 3 months after the end of each fiscal year.

### MCKINNEY ACT SUBTITLE B—APPROVED ACTIVITIES

*McKinney Act: Sec. 411—Homelessness Prevention*

(a) *Definition.* Assistance to help very low-income families avoid becoming homeless may include activities other than those HUD has found to be inconsistent with the McKinney Act.

(b) *Limitation on Financial Assistance.* A grantee may provide financial assistance to very low-income families who have received eviction notices or notices of termination of utility services if (1) the inability to make the payment is due to a sudden reduction to income; (2) the assistance is necessary to avoid eviction or termination; (3) there is a reasonable chance that the family can resume payment within a reasonable period of time; and (4) the assistance will not replace preexisting homelessness prevention measures from another source.

*McKinney Act: Sec. 412—Emergency Shelter*

(a) *Definition.* A project can be considered emergency shelter if it is designed to provide overnight sleeping accommodations and appropriate eating and cooking accommodations for homeless persons.

(b) *Minimum Standards of Habitability.* HUD would prescribe minimum standards of habitability for emergency shelter assisted under this section. Such standards would be designed to ensure that shelters provide appropriate privacy, safety and sanitary and other health-related conditions for homeless persons and families. Grantees could establish standards of habitability in addition to the standards prescribed by the Secretary.

(c) *Types of Assistance.* A grantee may provide the following assistance to a project sponsor of emergency shelter: (1) a grant for renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters; (2) grants for the provision of supportive services if such services have not been provided by local government during any part of the previous 12 months; and (3) annual payments for maintenance, operation (other than staff), insurance, utilities, and furnishings.

(d) *Program Requirements.* A grantee may provide assistance for a project only if the project sponsor has agreed that it will (1) in the case of assistance involving major rehabilitation or conversion of a building, maintain the building as a homeless shelter for at least 10 years; (2) in the case of assistance involving other rehabilitation, maintain it as a homeless shelter for at least 3 years; (3) in the case of other assistance (such as for provision of supportive services or maintenance and operation), provide services or shelter to homeless persons and families at the original site or structure, or other site or structure serving the same general population, for the period during which assistance is provided; (4) comply with the standards of habitability prescribed by HUD and (if applicable) the State or local government; and (5) assist homeless persons in obtaining appropriate supportive services essential for independent living, and any Federal, State, local or private assistance available to homeless persons.

*McKinney Act: Sec. 413—Transitional Housing for the Homeless*

(a) *Definition.* A project would be considered transitional housing if it is designed to facilitate the movement of homeless individuals to independent living within 24 months (or longer if approved by HUD). Transitional housing would include housing primarily designed to serve deinstitutionalized homeless persons and other homeless persons with mental disabilities, and homeless families with children.

(b) *Types of Assistance.* A grantee may provide the following assistance to a project sponsor of transitional housing: (1) an advance not to exceed the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as transitional housing; repayment of any outstanding debt owed on a loan to purchase a structure could also be considered an eligible cost if the structure has not been used as traditional housing before receipt of assistance; (2) a grant for moderate rehabilitation of an existing structure; (3) annual payments for operating costs of transitional housing (up to 75 percent of the annual operating costs); (4) technical assistance for the establishment or operation of transitional housing, and for the provision of supportive services; (5) a grant for an employment assistance program for the residents; and (6) a grant to operate a child care service.

(c) *Program Requirements.*

(1) *Required Agreements.* In order for a grantee to approve assistance for a project, the project sponsor must agree to operate the project as transitional housing for at least 10 years; conduct an ongoing assessment of supportive services needed by project residents; provide residential supervision necessary for the delivery of supportive services; and comply with other provisions as determined by HUD or the grantee.

(2) *Occupant Rent.* Each homeless person or family residing in transitional housing would pay the highest of the following amounts: 30 percent of monthly adjusted income as rent, or 10 percent of gross income, or the portion or welfare payments designated for shelter.

(3) Alternative Use. A project may continue to be treated as transitional housing if the grantee determines that such project is no longer needed for us as transitional housing and approves the use of such project for the direct benefit of very low-incomed families.

*McKinney Act: Sec. 414—Permanent Housing for Homeless Persons With Disabilities*

(a) *Definition.* A project would be considered permanent housing for homeless persons with disabilities if it provides community-based long-term housing and supportive services for not more than 8 homeless persons with disabilities. HUD may waive the 8-person limitation if the grantee demonstrates that local market conditions call for a larger project.

(b) *Project Design and Siting.* A project can be either a home designed solely for housing persons with disabilities, or dwelling units in a multifamily project, condominium, or cooperative. No more than one home may be located on any one site, and no home may be contiguous to the site of another.

(c) *Types of Assistance.* A grantee may provide the following assistance to a sponsor of permanent housing for homeless persons with disabilities: (1) an advance not to exceed the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure; repayment of any outstanding debt owed on a loan to purchase a structure could also be considered an eligible cost if the structure has not been used as permanent housing for homeless persons with disabilities before receipt of assistance; (2) a grant for moderate rehabilitation of an existing structure; (3) annual payments for operating costs (including those for newly constructed housing for homeless persons with disabilities as long as the construction was funded through other sources) not to exceed 50 percent of the annual operating costs in the first year of operation, and not to exceed 25 percent in the second year; (4) technical assistance in establishing and operating permanent housing for homeless persons with disabilities, or the provision of supportive services.

(d) *Program Requirements.*

(1) *Required Agreements.* A grantee may provide assistance only if a project sponsor has agreed to operate the project as permanent housing for homeless persons with disabilities for at least 10 years; conduct an ongoing assessment of required supportive services; provide residential supervision necessary for the delivery of services; and comply with other requirements of HUD or the grantee.

(2) *State Participation.* Each grantee would provide HUD with a letter of participation from the State assuring that the State would promptly transmit assistance to the sponsor and facilitate the necessary supportive services to residents of the project.

(3) *Occupant Rent.* Each homeless person residing in the project would pay the highest of the following amounts: 30 percent of his adjusted monthly income as rent, or 10 percent of his gross income, or the portion of his welfare payment designated for shelter.

(4) *Alternative Use.* A project may continue to be treated as permanent housing for homeless persons with disabilities for purposes of this subsection if the grantee determines that such project is no longer needed for use as such housing and approves the use of such project for the direct benefit of very low-income families.

(5) *Tenant Selection.* (A) An owner would be required to establish written tenant selection procedures which are designed to help improve housing opportunities for low income persons with disabilities and which are related to program eligibility and an applicant's ability to satisfy the requirements of the lease.

(2) Notwithstanding other provisions of law, the Secretary could permit an owner to restrict occupancy to persons with similar disabilities.

### *McKinney Act: Sec. 415—Transition to Permanent Housing*

(a) *Definition.* Assistance to help eligible families makes the transition to permanent housing, shall include the provision of security deposits and the cost of rent for one month. The term "eligible family" is defined for purposes of this section to mean a very low-income family who has resided in emergency shelter or transitional housing and who meets other conditions of eligibilitly as HUD determines to be appropriate.

(b) *Limitation on Financial Assistance.* A grantee may provide financial assistance to eligible families in the form of a security deposit and the cost of rent for not more than one month if: (1) the grantee determines that the rental charge for the subject unit is reasonable in comparison with rents charged for comparable units in the private, unassisted market; (2) there is a reasonable prospect that the family will be able to sustain the rental payments for a reasonable period of time; and (3) the eligible family has made reasonable efforts to receive assistance under local, State or Federal public assistance programs.

(c) *Participating Landlord.* If an eligible family vacates the rental unit, a landlord participating in this program must return to the grantee any portion of the security deposit (including reasonable interest) against which such landlord does not have a claim. Any returned funds may be used by a grantee in accordance with section 403(a).

### *McKinney Act: Sec. 416—Development of Additional Approval Activities.*

HUD, in cooperation with grantees and other appropriate parties, would develop additional approved activities to carry out the purpose of this title.

## MCKINNEY ACT: SUBTITLE C—SECTION 8 SINGLE ROOM OCCUPANCY

### *McKinney Act: Sec. 421—Section 8 Assistance for Single Room Occupancy Provisions*

(a) *Use of Funds.* Amounts appropriated could be used only for the moderate rehabilitation of single room occupancy (SRO) dwellings for occupancy by homeless persons, except that funds may be use din connection with the moderate rehabilitation of efficency units if the owner agrees to pay any additional costs involved in the rehabilitation and operation of the units.

(b) *Allocation.* HUD would allocate funds to public housing agencies or other contracting agencies that best demonstrate a need for assistance and the abilitly to undertake and carry out the program. A detailed proposal describing size a and characteristic of the population to be housed, a listing of additional commitments from public and private sources, an inventory of housing stock suitable be rehabilitated, and a description of interest expressed by builders, developers, and other interested in participating in the program should be submitted when requesting funds. No more than 10 percent of available assistance may be awarded to any single city or urban county.

(c) *Fire and Safety Improvements.* The rental credit contract for any project covered by this subtitle would require the installation of a sprinkler system for all major spaces such as hallways and common areas. Installation of smoke detectors and other fire and safety improvements required by State or local law must be provided.

(d) *Cost Limitation.* The rehabilitation cost limitation per unit is set at $15,000 (subject to reasonable adjustments by HUD), but it would increase annually by amounts necessary to take into account construction cost increases of the previous year. Increases would occur on October 1st of each year.

(e) *Contract Requirements.* HUD would enter into annual contributions contracts with public housing agencies or other contracting agencies to provide funding for a 10-year period. HUD would have the option of renewing the contract for another 10-year period. First priority for occupancy of such housing would be given to homeless persons.

### *McKinney Act: Sec. 442—Increase in Budget Authority*

The bill would authorize an increase in Section 8 budget authority for the provision of SRO units. This would be an increase of $78,694,000 in fiscal year 1991, $81,842,000 in fiscal year 1992, and $85,115,000 in fiscal year 1993.

## MCKINNEY ACT: SUBTITLE D—SHELTER PLUS CARE PROGRAM

## Part I—Shelter Plus Care: General Requirements

### *McKinney Act: Sec. 431—Purpose*

This program would provide rental housing assistance to homeless persons who have disabilities in connection with supportive services funded from other sources.

### *McKinney Act: Sec. 432—Rental Housing Assistance*

The Secretary would be authorized to provide rental assistance in accordance with the requirements established in Parts II, III, and IV.

### *McKinney Act: Sec. 433—Supportive Services Requirements; Matching Funding*

(a) *Supplemental Funds.* The recipient would be required to make assurances that the amount of budget authority obligated by the Secretary for rental housing assistance be matched with at least an equal amount of funding from other sources for supportive services. The recipient could count the value of such in-kind contributions as the Secretary determines to be appropriate.

(b) *Assurances.* Recipients would also be required to assure that supportive services appropriate to the needs of those being served would be available for the full term of the rental housing assistance.

(c) *Recapture.* The Secretary would be allowed to recapture any unexpended rental housing assistance if the recipient fails to ensure that the supportive services are provided.

### *McKinney Act: Sec. 434—Applications*

Each application would be submitted according to procedures established by the Secretary that would include:

(1) a request for housing assistance under any or all of the three program housing components, which would include the number of units requested and the amount of budget authority for these units;

(2) a description of the size and characteristics of the population of eligible individuals;

(3) the identity of the proposed service providers and a statement of their qualifications;

(4) a description of the supportive services that the applicant proposes to make available to eligible individuals;

(5) a description of how these services are to be funded;

(6) a description of how individual housing and services plans are to be developed for each individual and how the individual's progress in meeting this plan will be monitored;

(7) assurances that supportive services will be available for the full term of the rental housing assistance and, if they are not, that the applicant will fund any necessary supportive services;

(8) a certification that the proposed activities are consistent with the approved housing strategy of the unit of local government under section 105 of this Act;

(9) a plan for:

(A) providing housing assistance under Part II;

(B) identifying and selecting eligible individuals;

(C) coordinating the provision of housing assistance and supportive services;

(D) ensuring that service providers are providing adequate supportive services;

(E) obtaining the participation of those homeless individuals not previously served by homeless programs or determined not to be capable of being served;

(10) identification of the specific structures that the recipient would propose for rehabilitation and assistance; and

(11) identification of the nonprofit sponsor that would be the owner or lessor of the property (if the application requests assistance under Part IV), and identification of the specific structures to be used.

### *McKinney Act: Sec. 435—Selection Criteria*

The Secretary would be required to establish selection criteria for a national competition that would include:

(1) the ability of the applicant to develop and operate the proposed housing assistance and supportive services program;

(2) the need for a program of housing assistance and supportive services for eligible persons in the area;

(3) the quality of the proposed housing assistance and supportive services program;

(4) the extent to which the funding for the supportive services is or will be available;

(5) the extent to which the project would meet the needs of the homeless persons to be served by the program;

(6) the cost-effectiveness of the proposed program; and

(7) other factors which the Secretary determines are appropriate.

(c) *Consultation with HHS.* The Secretary would be required to consult with the Secretary of Health and Human Services in reviewing the supportive services aspects of the applications.

(d) *Funding limitation.* This section would restrict the amount of assistance that could be awarded in the jurisdiction of any one unit of general local government to no more than 10% of the total assistance available in any fiscal year.

### *McKinney Act: Sec. 436—Required Agreement*

Applicants would be required to agree to:

(1) operate the program in accordance with this subtitle;

(2) conduct an ongoing assessment of the housing assistance and supportive services required by the homeless persons participating in the program;

(3) assure that adequate services are provided; and

(4) comply with other terms and conditions necessary to carry out the program in an effective and efficient manner.

### *McKinney Act: Sec. 437—Termination of Assistance*

This section would allow a recipient to terminate rental housing assistance to a person made available under this subtitle, if that person were to violate any program requirements.

### *McKinney Act: Sec. 438—Definitions*

This section defines the terms acquired immunodeficiency syndrome and related diseases, applicant, chronic problems with alcohol, eligible person, Indian tribe, person with disabilities, public housing agency, recipient, Secretary, seriously mentally ill, State, supportive services, and unit of general local government.

### *McKinney Act: Sec. 439—Authorization of Appropriations*

This section would authorize for rental assistance under Part II for $160,800,000 for fiscal year 1991, $167,213,000 for fiscal year 1992, and $173,400,000 for fiscal year 1993. Part III assistance for Section 8 SRO activity would be authorized at $49,571,000 for fiscal year 1991, $54,193,000 for fiscal year 1992, and $56,144,000 for fiscal year 1993. Finally, Part IV Section 202 rental assistance would be authorized at $35,835,000 for fiscal year 1991, $37,233,000 for fiscal year 1992, and $38,573,000 for fiscal year 1993.

## Part II—Shelter Plus Care: Homeless Rental Housing Assistance

### *McKinney Act: Sec. 441—Purpose*

The Secretary would be authorized to provide rental assistance in accordance with the requirements contained in Part II.

### *McKinney Act: Sec. 442—Housing Assistance*

Recipients would be allowed to determine where homeless individuals receiving assistance could live if such determination were necessary to ensure that adequate supportive services would be provided. For up to the first two years of participation, homeless persons receiving housing assistance could be required to live in a particular structure or unit as a condition of participation. At any time during their participation, eligible individuals could be required to live in a particular geographic area in order to ensure that appropriate, continuing supportive services would be provided.

### *McKinney Act: Sec. 443—Amount of Assistance*

This section would create a five-year term of assistance, not to exceed 25% of the aggregate amount available over the five-year period, based on the housing fair market rent in effect at the time the application is approved. If less than this amount were expended in any one year, the surplus could be applied to subsequent years. The recipient would be able to exceed this 25% limitation if it has entered into financial commitments assuring that the shortfall would be funded from other sources.

### *McKinney Act: Sec. 444—Housing Standards and Rent Reasonableness*

Recipients would be required to inspect units before assistance is provided to determine that the rent to be charged would be reasonable and that the unit would meet HUD-established housing standards. The recipient would be required to inspect these units at least annually. No assistance could be provided if the rent were unreasonable or the unit failed to meet housing standards, unless the recipient verified that the owner had corrected the deficiency.

### *McKinney Act: Sec. 445—Tennant Rent*

Individuals receiving rental assistance would be required to pay rent according to the income rules which apply to HUD's housing assistance programs under the U.S. Housing Act of 1937.

### *McKinney Act: Sec. 446—Administrative Fees*

The Secretary would be required to pay the entity administering the housing assistance an administrative fee in an amount to be determined by the Secretary.

## Part III—Shelter plus Care: Section 8 Moderate Rehabilitation Assistance for Single Room Occupancy Dwellings

### *McKinney Act: Sec. 451—Purpose*

The Secretary would be authorized to use the funds authorized under Part III for the moderate rehabilitation of single room occupancy housing. Occupancy for these units would be restricted to very low-income homeless persons. The Secretary would be allowed to assist the moderate rehabilitation of efficiency units if the building owner would agree to pay the additional cost of rehabilitating and operating the efficiency units.

### *McKinney Act: Sec. 452—Fire and Safety Improvements*

This section would require the installation of sprinkler systems, hard-wired smoke detectors and any other fire and safety improvements that may be required by State and local law.

### *McKinney Act: Sec. 453—Contract Requirements*

This section would place certain requirements on the PHA that will administer the section 8 SRO Moderate Rehabilitation program. These requirements would:

(1) commit the Secretary to provide assistance for a 10-year period, including providing any additional budget authority for the remainder of the 10-year period;

(2) allow the Secretary to renew the annual contributions contract for an additional 10-year period; and

(3) provide a priority for these units for very low-income eligible homeless persons.

### *McKinney Act: Sec. 454—Occupancy*

(a) *Occupancy agreement.* This subsection would require an occupancy agreement between the tenant and the owner for at least one month.

(b) *Vacancy Payments.* Vacancy payments would be limited to completion of the month in which the unit is vacated, unless the unit would be occupied by another eligible individual.

(c) *Inapplicability of 'Other single person' limitations.* This section would make inapplicable to this program the limitation contained in section 3(b)(3) of the U.S. Housing Act of 1937 that no more than 15% of the units under the jurisdiction of any PHA are to be occupied by "other single persons."

## Part IV—Shelter Plus Care: Section 202 Rental Assistance

### *McKinney Act: Sec. 461—Purpose*

The Secretary would be authorized to use funds made available under part IV of this subtitle for rental housing assistance under section 611 of this Act for very low income persons.

### *McKinney Act: Sec. 462—Amount of Assistance*

This section would create a five-year term of assistance. Each contract would provide that the recipient could receive aggregate amounts not to exceed the appropriate existing housing fair market rent in effect at the time the application is approved. Recipients would be required to ensure that this assistance, plus any assistance provided from other sources, lasted for the full five-year term.

### *McKinney Act: Sec. 463—Housing Standards and Rent Reasonableness*

Recipents would be required to inspect units before assistance is provided to determine that the rent to be charged would be reasonable and that the unit would meet HUD-established housing standards. The recipient would be required to inspect these units at least annually. No assistance could be provided if the rent were unreasonable or the unit failed to meet housing standards, unless the recipient verified that the owner had corrected the deficiency.

### *McKinney Act: Sec. 464—Administrative Fees*

The Secretary would be required to pay the entity administrating the housing assistance an administrative fee in an amount to be determined by the Secretary.

## SUBTITLE E—MISCELLANEOUS

### *McKinney Act: Sec. 471—Environmental Review*

Section 104(g) of the Housing and Community Development Act of 1974 would apply to assistance and projects under this title. This section would require the Secretary to issue, within 120 days after funds first become available for obligation under the program, a notice establishing program requirements. This notice would govern the program until final regulations are issued, no later than eight months after the notice.

This section would allow the Secretary to use any funds appropriated under the Supplemental Assistance for Facilities to Assist the Homeless program that are or become available to be used for the Shelter Plus Care program.

(The following section numbers refer to sections of S. 566, not the Stewart B. McKinney Act.)

### *Sec. 622—Definition of "Homeless Person"*

The term "homeless person" is added to the definition of "homeless" or "homeless individual" given in section 103(a) of the McKinney Act.

### *Sec. 623—Transitional Rule*

In order to facilittate the changes in regulations required by this Act, HUD is authorized to allocate homeless assistance under current regulations for up to one year following enactment of this Act.

### *Sec. 624—Conforming Amendment*

This section would provide a revised table for contents for the McKinney Act.

### *Sec. 625—Strategy to Assist Homeless Persons with Acquired Immunodficiency Syndrome and Related Diseases*

(a) *In general.* The Secretary, in consulation with other officials and organizations, would develop a strategy to increase the supply of supportive housing for homeless persons with AIDS.

(b) *Preliminary information.* In developing the strategy, the Secretary would

(1) identify States and localities with significant populations of homeless persons with AIDS;

(2) assess the level of Federal housing and supportive services for this population;

(3) identify Federal, State and local statutes and regulations that inhibit development of supportive services homeless persons with AIDS; and

(4) identify other barriers that inhibit housing and supportive services.

(c) *Contents of strategy.* The strategy would include

(1) recommended changes in Federal State, and local statutes and regulations;

(2) actions that would help build the capacity of nonprofit organizations to develop supportive housing for homeless person with AIDS;

(3) preferences in the allocation of resources under the McKinney Act;

(4) limitations on the use of activities under the McKinney Act;

(5) a set-aside of tenant based rental assistance;

(6) expedited decisionmaking, waivers, or changes in regulations; and

(7) additional constraints on use of funds that the Secretary determines is appropriate.

(d) *Definitions.* This section would define the terms acquired immunodeficiency syndrome and related diseases, and Federal housing and supportive service programs.

## TITLE VII—PUBLIC AND INDIAN HOUSING

### *Sec. 701—Purpose*

The purpose of this title would be to (1) modernize public and Indian housing and provide needed operating assistance, (2) provide for one-for-one replacement of public housing units that are disposed of through either demolition or disposition, (3) establish Project Independence to provide better job and educational opportunities for families with children living in public housing; and (4) reduce the cost of operating assistance to public and Indian housing by improving the energy efficiency of the housing stock.

### SUBTITLE A—PUBLIC HOUSING REVISIONS

### *Sec. 711—Public Housing Major Reconstruction Program*

The Secretary would set aside funds appropriated under the CIAP program to make grants available for the substantial redesign, reconstruction, or redevelopment of existing public housing.

### *Sec. 712—Replacement Housing*

(a) *Budget request.* As part of the annual budget request for HUD, the Secretary would be required to submit a report outlining the commitments for replacement of public housing lost through demolition or disposition during the previous fiscal year and the annual budget authority required to meet those commitments.

(b) *Repealer.* Section 18(c)(3) of the Housing Act of 1937 would be repealed.

### *Sec. 713—Public Housing Management Reform*

(a) *Performance Indicators for Public Housing.*

Section 6(j) would be amended as follows:

(1) HUD would be required to develop indicators to assess the management performance of PHAs.

(2)(A) HUD would be required to establish procedures for designating "troubled" PHAs. (B) HUD would try to enter into agreements with each troubled agency that would specify (i) targets for meeting the performance standards within a certain time period; (ii) strategies for meeting those targets; and (iii) incentives or sanctions to spur the effective implementation of those strategies.

(3)(A) HUD would be given the discretion, where a PHA has substantially defaulted on the covenants or conditions to which the agency is subject (or on a "troubled agency" agreement), to (i) solicit competitive bids from housing management agents if such agents are needed to manage all, or part, of the PHA's inventory and (ii) petition for the appointment of a receiver in Federal or State court. The receiver may be a private management corporation. (B) Upon a court determination that an agency has substantially defaulted, the court would appoint a receiver to conduct the affairs of the agency, regardless of the availability of alternative remedies. The court would have the discretion to provide additional terms and conditions under which the receivership will occur and would have the power to grant temporary or preliminary relief pending final disposition of the petition. (C) The appointment of a receiver could be terminated (upon the petition of any party) when the court determines that all defaults have been cured and that the housing of the PHA will thereafter be operated in accordance with the subject covenants and conditions.

(4) HUD would be required to submit a report to Congress on annual basis. The report would identify PHAs that have been designated as "troubled", describe the agreements that have been entered into with such agencies, describe the status of progress under such agreements, and describe any cases in which HUD has imposed alternative management or sought receivership. HUD would consult with the Public Housing Advisory Board in the preparation of the annual report.

(b) *Project-Based Accounting Systems.* Each public housing agency would be required to establish and maintain (by January 1, 1993) a system of project-based accounting for rental collections and operating costs.

(c) *Reduction of Operating Subsidy for Vacant Units.* HUD would be permitted to reduce operating subsidies for public housing units that have been continuously vacant for one year or longer where such vacancies have been caused by factors within the control of the public housing agency.

### *Sec. 714—Termination of Tenancy in Public Housing*

(a) *In General.* This provision would revise section 6(l)(5) of the U.S. Housing Act of 1937 to require that each public housing lease provide that the tenant, any member of the tenant's household, or a guest or other persons under the tenant's control shall (1) not engage in any activity that adversely affects the health, safety or right to quiet enjoyment of the premises of other tenants, and (2) not engage in criminal activity, including drug-related criminal activity that threatens the health, safety or right to quiet enjoyment of the premises of other tenants.

(b) *No Preference.* This provision would revise Section 3(b)(3) of the U.S. Housing Act of 1937 to clarify that individuals and families evicted from public housing for drug related criminal activity would remain ineligible from having a preference for 5 years unless the tenant successfully completes a rehabilitation program approved by the Secretary.

*Sec. 715—Energy Efficiency Demonstration*

(a) *Establishment.* HUD would be required to establish a program to demonstrate the opportunities for energy cost reduction in public housing through the use of private energy service companies. Technical assistance would be provided to 5 public housing agencies. HUD would establish selection criteria after consultation with representatives of public housing agencies and energy efficiency organizations.

(b) *Report.* HUD would submit a report to Congress detailing the findings of the demonstration program and any resulting recommendations. The report would be due as soon as practicable following one year after the enactment of the National Affordable Housing Act.

(c) *Funding.* The demonstration program would be funded through a set aside of amounts appropriated for research and development. $500,000 would be made available for fiscal year 1991.

*Sec. 716—Preference Rules*

This section would amend section 6(c)(4)(A) of the U.S. Housing Act of 1937 to revise the preference rules governing tenant selection in public housing. PHAs would be required to give preference, for not less than 50 percent of the public housing units that are made available for occupancy in a given fiscal year, to families that meet the current Federal preferences. PHAs could then, for any remaining units, give preference in accordance with a system of local preferences that the PHA establishes in writing and after public hearing to respond to local housing needs and priorities. Individuals and families evicted from public housing for drug related criminal activity would remain ineligible from having a preference for 5 years unless the tenant successfully completes a rehabilitation program approved by the Secretary.

*Sec. 717—Public Housing Replacement*

This section would amend section 18(b) of the U.S. Housing Act of 1937 to make a limited exception to the existing one-for-one replacement rule governing the demolition or disposition of public housing. The exception would permit the replacement of at least one additional unit for every two units demolished or disposed of where (a) the housing to be demolished or disposed of has experienced 35% vacancies over the past 5 years; (b) the local rental market has a vacancy rate of 10%; and (c) the local jurisdiction is deemed to be experiencing severe economic distress under the UDAG standards.

The section would also require a public housing agency to hold an open, public hearing on the agency's application for demolition or disposition.

*Sec. 718—Public Housing Advisory Board*

This section would establish a new 15-member, Public Housing Advisory Board under Section 5(n) of the U.S. Housing Act of 1937.

The Board would provide advice on general public housing policies and other matters related to public housing that the Secretary and Assistant Secretary deem appropriate. The Secretary would appoint 9 members; 6 members would be appointed by the Congress. At least 8 members would have public housing managerial experience; 2 would be distinguished professionals associated with public housing; 2 would be elected State or local officials; 2 would be tenants or tenant representatives; and 1 would be a distinguished academic. Members of the Advisory Board would represent various regions of the country. The Advisory Board would have prompt access to relevant information and would annually submit a report to Congress assessing HUD's activities that affect public housing.

### *Sec. 719—Eviction for Criminal Activity*

(a) *Notice to post office.* PHAs would be required to notify the local post office regarding the eviction of a tenant for criminal activity.

(b) *Grievance procedures.* A PHA could exclude from its grievance procedure any eviction of tenancy due to criminal activity which affects the health, safety, and welfare of the other tenants, provided that the tenant is notified of the reason for the eviction.

## SUBTITLE B—AUTHORIZATIONS

### *Sec. 721—Authorization of Operating Subsidies*

For Operating Subsidies, $1,865,000,000 would be authorized for fiscal year 1991, $1,940,100,000 would be authorized for fiscal year 1992, and $2,017,200,000 would be authorized for fiscal year 1993.

### *Sec. 722—Authorization of the Comprehensive Improvement Assistance Program and Public Housing Resident Management*

(a) *Comprehensive improvement assistance program.* The budget authority for grants under this program would be increased by $2,217,000,000 for fiscal year 1991, $2,306,000,000 for fiscal year 1992, and $2,398,400,000 for fiscal year 1993.

(b) *Public Housing Resident Management.* The bill would reauthorize funding for resident management technical assistance and training.

## SUBTITLE C—PROJECT INDEPENDENCE

### *Sec. 731—Purpose*

The purpose of this subtitle would be to provide better job and educational opportunities for families with children living in public housing by (1) developing training and support facilities in or near public housing, (2) mobilizing public and private resources to expand and improve the delivery of such services, (3) providing transitional funding for such services which cannot otherwise be funded; and (4) improving the capacity of management to assess the service needs of families with children, coordinate the provision of supportive services that meet the needs of families with children and ensure the long-term provision of such services.

### *Sec. 732—Project Independence*

A new section 14(j) of the Housing Act of 1937 would be added as follows:

(1) The Secretary would be directed to provide assistance to public housing in the form of grants to help families with children gain better access to educatioal and job opportunities. Assistance would be made available to PHAs that demonstrate that assistance is necessary to accommodate supportive services that will receive funding from other sources. Funds would be set aside from the appropriations for the Comprehensive Improvement Assistance Program in the amounts of $50 million for fiscal year 1991, $52 million for fiscal year 1992, and $54,080,000 for fiscal year 1993.

(2) Assistance could be provided through several means: (i) the renovation, conversion, or combination of vacant units in public housing projects to create congregate space to accommodate the provision of supportive services; (ii) the renovation of existing congregate space in public housing projects; (iii) the renovation of permises near the public housing projects; and to accommodate such provision: (iv) the transitional provision of supportive services for up to 3 years if the PHA can demonstrate that the services are needed to improve the access of eligible residents to employment and educational opportunities; that the PHA has tried diligently to obtain the funds elsewhere; and, that long-term funding for the services will be available from other sources; and (v) the employment of service coordinators who may be responsible for, *inter alia*, assessing the training and service needs of eligible residents, helping service providers coordinate the provision of services and tailor such services to the needs and characteristics of eligible residents, and mobilizing public and private resources to ensure that the necessary services can be funded over an adequate time period. HUD would establish such minimum qualifications and standards for the position of service coordinator as is deemed necessary to ensure sound management.

(3) HUD would be directed to allocate assistance among applications submitted by PHAs.

(4) The applications would include: (A) a description of supportive services to be provided to residents over the next 5 years (or such longer period that HUD determines is appropriate to coincide with substantial rehabilitation); (B) a firm commitment from one or more sources of assistance ensuring that the services will be provided for at least one year; (C) a description of the sources that will provide supportive sources over the 5-year period, including State and local governments, private foundations, and nonprofit organizations; (D) a certification from a State or local agency assuring that the supportive services to be provided are needed by eligible residents, and that there is reasonable likelihood that they will be provided as stated; (E) a description of the assistance that the agency seeks; and (F) any other information needed by HUD.

(5) In selecting applicants for assistance, HUD would establish certain criteria including: ability of the PHA or service

provider to provide supportive services; need for such services in the housing; the extent to which any renovation and conversion will foster the provision of services; the extent to which the agency has demonstrated that services will be provided over the required time period; the extent to which the PHA has a good record of maintaining and operating public housing; and other factors deemed necessary by HUD.

(6)(A) PHAs would be required to submit to HUD annual progress reports on its use of funds under this section.

(B) HUD would be required to submit to the Congress an annual report evaluating the effectiveness of the services. The report would summarize the progress reports submitted by the PHAs.

(7) HUD could reserve up to 5 percent of the annual amount made available in each fiscal year to supplement grants made to PHAs, if HUD determines that such supplemental aid would be required to maintain an adequate level of services for eligible residents.

(8) PHAs would be required, to the maximum extent practicable, to employ residents for the delivery of services. Such residents would be paid at the Federal, State, or local minimum wage rate, or prevailing rates of pay for persons employed in similar public occupations by the same employer. The highest of these rates would prevail. Services provided to eligible residents would not be treated as income for any other program or provision of Federal or State law.

(9)(A) The term "eligible resident" would be defined as a public housing resident who (i) is a single head of household with one or more children under the age of 10 and (ii) is economically disadvantaged as defined by the Job Training Partnership Act.

(B) The term "qualifying supportive services" would be defined as those services that HUD deems necessary to provide the residents with better access to educational and employment opportunities. Such services could include child care, employment training and counseling, literacy training, computer skills and training, or assistance in obtaining high school equivalency certificates. The PHAs would be authorized to provide such services directly, through other providers by contract or lease.

### *Sec. 733—Conforming Amendments*

(a) *No Reduction of Operating Subsidy.* The public housing operating subsidy authority in section 9 of the U.S. Housing Act of 1937 would be amended to provide that operating subsidies would not be reduced because a PHA renovates, converts, or combines one or more units to create congregate space to accommodate supportive services under Project Independence.

(b) *Benefits Excluded from Income.* Income or benefits received by a public housing resident during participation in a job training or supportive services program would not be cosidered as income in determining the resident's rent payments. In addition, income earned in the first job obtained by the resident upon completion of a program would be excluded for rent determination purposes for up to 18 months after the job is obtained.

## SUBTITLE D—INDIAN HOUSING

### *Sec. 741—Disposition of Interests on Indian Land*

This section would amend Section 509 of the Housing Act of 1949 by inserting a provision requiring HUD to transfer tribal allotted or trust land to an eligible tribal member, the tribe, or the Indian Housing Authority serving the tribe in the event of liquidation of such property.

### *Sec. 742—Authorization*

Indian Housing public housing grants would be authorized at $179,170,000 for fiscal year 1991, $186,337,000 for fiscal year 1992, and $193,790,000 for fiscal year 1993.

## SUBTITLE E—PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION

### *Sec. 751—Reauthorization of Public Housing Drug Elimination Act*

Section 5125 of the Public Housing Drug Elimination Act of 1988 (Public Law 100-690) is amended to read as follows:

### *Omnibus Drug Act: Sec. 5121—Short Title*

This title may be cited as the "Public and Assisted Housing Drug Elimination Act of 1989".

### *Omnibus Drug Act: Sec. 5122—Congressional Findings*

This section establishes the responsibility of the federal government for providing public and federally assisted housing that is decent, safe and free from illegal drugs. It recognizes that the welfare of the tenants of this public and federally assisted housing and the physical environment itself are threatened by rampant drug-related crime. It also recognizes that local law enforcement authorities don't always have the resources to adequately deal with this problem.

### *Omnibus Drug Act: Sec. 5123—Authority to Make Grants*

The Secretary of Housing and Urban Development, in accordance with the provisions of this title, may make grants to public housing agencies (including Indian Housing Authorities) and private, for-profit and non-profit owners of federally assisted, low-income housing for use in eliminating drug-related crime.

### *Omnibus Drug Act: Sec. 5124—Eligible Activities*

Grants under this chapter may be used in public housing or other federally assisted housing, low-income housing projects for:

(1) the employment of security personnel in public housing projects;

(2) reimbursement of local law enforcement agencies for additional security and protective services for public housing projects;

(3) physical improvements in public housing projects which are specifically designed to enhance security;

(4) the employment of one or more individuals to: (A) investigate drug-related crime on or about the real property comprising any public housing project; and (B) to provide evidence relating to such crime in any administrative or judicial proceeding;

(5) the provision of training, communications equipment, and other related equipment for use by voluntary public housing tenant patrols acting in cooperation with local law enforcement officials;

(6) innovative programs designed to reduce use of drugs in and around public housing projects; and

(7) providing funding to nonprofit public housing resident management corporation and tenant councils to develop security and drug abuse prevention programs involving site residents.

*Omnibus Drug Act: Sec. 5125—Applications*

(a) *In General.* To receive a grant under this title, a public housing agency or an owner of federally assisted, low-income housing shall submit an appropriate application to the Secretary. The application shall include a plan for addressing the problem of drug-related crime on the premises of public and other federally assisted low-income housing. The plan should:

(1) assess the nature and extent of the problem of drug related crime and the problems associated with drug related crime in the projects;

(2) discuss the activities currently being undertaken and list the resources being provided by the applicant, governmental entities, resident management corporations, and resident management councils to address the problem;

(3) discuss the strategy for addressing the problem in each of the projects proposed for assistance under this title including—(A) a description of each of component of the strategy which will be undertaken with funding under this title and how these components interrelate, (B) the anticipated cost of each component of the strategy and the financial and other resources that may reasonably be expected to be available to carry out each component, (C) a schedule for beginning and completing each component of the strategy, (D) an estimate of the results that the strategy is supposed to achieve, (E) the role of affected tenants, resident management corporations, tenant councils and any other entities, such as local and State governments and community organizations, in planning and implementing the strategy, (F) a statement of the nature of the program and how the program represents a new or creative approach to achieving this purpose that could be usefully replicated at other housing sites if grants under this title are to be used for innovative programs to reduce the use of drugs in and around public and other federally assisted, low-income housing under paragraph (6) of Section 5124, and (G) evidence of local government, local community and tenant support for the plan.

(b) *Criteria.* The Secretary shall approve applications under this chapter based exclusively on—(1) the extent of the drug-related crime problem in the project proposed for assistance; (2) the quality of the plan to address the crime problem in the project or projects proposed for assistance; (3) the capability of the applicant to carry out the plan as reflected by funding or other commitments of support for each aspect of the plan, its administrative capability to manage its projects, its record of previous efforts to eliminate drugs from its projects and its degree of commitment to addressing the problem of drug related crime; and (4) the extent to which tenants, the local government and local community support and participate in the design and implementation of the anti-crime activities of the applicant.

(c) *Preference.* In the case of applications submitted by private owners, the Secretary shall give preference to applicants who contribute or raise resources for the implementation of their plan. The Secretary shall reject the application of any private owner who has received more than a reasonable return, as determined by the Secretary, on the project or projects referred to in the owner's plan.

(d) *Private Housing.* The Secretary may establish guidelines for the evaluation of applications submitted by private owners that reflect any differences that exist between the problem of drug related crime in public housing and the problem of drug related crime in other federally assisted, low-income housing.

### *Omnibus Drug Act: Sec. 5126—Definitions*

This section defines terms used in this chapter: "controlled substance" (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802)); "drug-related crime" (the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use [of] a controlled substance); "Secretary" (the Secretary of Housing and Urban Development); "federally assisted, low-income housing" (housing subsidized under Sections 221(d)(3) and (d)(4), 236, 101 (rent supplements) 202 and Section 8 Additional Assistance (Loan Management Set Aside and Project Disposition)).

### *Omnibus Drug Act: Sec. 5127—Implementation*

The Secretary shall issue regulations to implement this title within 180 days after the date of enactment of this Act.

### *Omnibus Drug Act: Sec. 5128—Reports*

The Secretary shall require grantees to provide periodic reports that include the obligation and expenditure of grant funds, the progress made by the grantee in implementing the plan described in Section 5125(a), and the incidence of drug-related crime in projects assisted under this title.

### *Omnibus Drug Act: Sec. 5129—Evaluation*

(a) To increase the efficiency and effectiveness of programs funded under this chapter, the Secretary shall conduct a comprehensive evaluation of the programs funded under this chapter.

(b) In conducting this review, the Secretary shall consider—(1) whether the programs funded under this chapter establish or demonstrate an effective approach to reducing drug-related criminal activity in public and other federally assisted, low-income housing; (2) the cost of such programs and the number of similar programs funded under this chapter; (3) whether the programs can easily by replicated in other jurisdictions; and (4) whether there is substantial public awareness and community involvement in the programs. Evaluation shall include the routine auditing, monitoring, and internal assessment of the programs.

(c) The Secretary shall annually report to the Congress on the nature and findings of the evaluation required under this section.

*Omnibus Drug Act: Sec. 5130—Authorization of Appropriations*

There is authorized to be appropriated to carry out this chapter $150 million for fiscal year 1991, $156 million for fiscal year 1992, and $162,240,000 for fiscal year 1993. Any amount appropriated under this section shall remain available until expended.

## TITLE VII—RURAL HOUSING

*Sec. 801—Purpose*

The purpose of this title would be (1) to reaffirm and national commitment to expand opportunities for law-income residents of rural areas to purchase homes or obtain affordable rental housing, (2) to use partially deferred mortgages to enable very low-income people to use the section 502 program, and (3) to direct rural housing assistance toward traditionally underserved areas which have a high concentration of poverty and substandard housing.

*Sec. 802—Program Authorizations*

(a) *Insurance and Guarantee Auth[illegible]y.* The bill would authorize loans of $2,160,000,000 during fiscal year 1991, $2,246,400,000 during fiscal year 1992, and $2,336,256,000 during fiscal year 1993 as follows:

[In thousands of dollars]

| FmHA program | Fiscal year— | | |
|---|---|---|---|
| | 1991 | 1992 | 1993 |
| Section: | | | |
| 502 | 1,457,465 | 1,515,764 | 1,576,394 |
| 504 | 11,715 | 12,184 | 12,671 |
| 514 | 11,870 | 12,344 | 12,839 |
| 515 | 677,840 | 704,954 | 733,152 |
| 523 | 520 | 540 | 562 |
| 524 | 590 | 614 | 638 |

(b) *Authorization of Appropriations.* The bill would authorize grants during fiscal year 1991 and fiscal year 1992, as follows:

[In thousands of dollars]

| FmHA program | Fiscal year— | | |
|---|---|---|---|
| | 1991 | 1992 | 1993 |
| Section: | | | |
| 504 | 19,000 | 19,760 | 20,550 |
| 509 | 520 | 540 | 562 |
| 516 | 20,340 | 21,154 | 22,000 |

[In thousands of dollars]

| FmHA program | Fiscal year— | | |
|---|---|---|---|
| | 1991 | 1992 | 1993 |
| 523 | 14,340 | 14,914 | 15,510 |
| 533 | 25,800 | 26,832 | 27,906 |

(c) *Rental Assistance Payment Contracts.* For rental assistance payment contracts under section 521 the bill would authorize $395,000,000 in fiscal year 1991, $410,800,000 in fiscal year 1992, and $427,232,000 in fiscal year 1993.

(d) *Rental Housing Loan Authority.* Authority to make rental housing loans under section 521 would be extended through September 30, 1992.

(e) *Mutual and Self-Help Housing Grant and Loan Authority.* Authority to make loans and grants for self-help housing under section 523 would be extended through September 30, 1992.

(f) *Rural Rental Rehabilitation Demonstration.* Section 523(f) of the Housing Act of 1949 is extended until September 30, 1992.

### *Sec. 803—Section 502 Deferred Repayment*

The section 502 program is amended to permit an eligible borrower to defer repayment of up to 20 percent of the principal due on a loan. Three conditions must be met: (1) the borrower must reside in a State where, on average, the State has been unable to obligate 10 percent or more of the section 502 funds which were set aside for use by very low-income persons, (2) the deferral is necessary to enable the borrower to afford payment on the loan, and (3) the borrower can reasonably be expected to fully repay the deferred principal over the remaining life of the loan.

When a borrower subsequently is able to afford higher monthly payments, the increased payments are applied to repayment of the deferred principal. When principal is no longer being deferred, increased payments are applied to an increase in the interest rate on the loan. The borrowers pay interest at 1 percent on any deferred principal.

### *Sec. 804—Housing in Underserved Areas*

The Secretary of Agriculturee is directed to designate 100 counties in fiscal years 1991, 1992, and 1993 as "targeted underserved areas" with severe unmet housing needs. The average per capita rural housing assistance received by the area over the preceding 3 years must be less than that received by other areas of the State over the same period. In addition, the eligible counties must have a number of rural households below the poverty level and a number of occupied substandard housing units as a percentage of total county rural households. The Secretary of Agriculture could target those counties with the highest combined percentages of these two factors.

An outreach program would be used to publicize the availability of rural housing assistance to these areas and to promote efforts to apply for such assistance.

The Secretary of Agriculture would be directed to reserve for use in targeted underserved areas $25 million in section 515, $40 million in section 502, and $1 million each in section 504 loans and grants during fiscal years 1991, 1992, and 1993. An amount of rental assistance under section 521, determined to be appropriate by the Secretary of Agriculture, shall be reserved by the Secretary and Farmers Home Administration state offices for use in targeted underserved areas. Funds which have been set aside and remain unexpended by a reasonable date would be reallocated to other underserved areas. The current list of underserved areas would be published in the Federal Register.

The Secretary would be authorized to provide grants to community based housing organizations and units of general local government for the development of affordable housing in targeted underserved areas. A grant under this section could not exceed any customary and reasonable costs of preparing a project for final application for a rural housing loan. Loan amounts will be adjusted to compensate for these grants.

### *Sec. 805—Housing Preservation Grants*

The Secretary of Agriculture may retain and reobligate grants obligated but not expended under section 533 in a given fiscal year.

### *Sec. 806—Transfer of Section 502 Stock for Use under Section 515*

The Secretary of Agriculture is authorized to sell section 502 properties, which have been acquired through borrower default or foreclosure, to for-profit organizations who will use the property as rental or cooperative housing under the section 515 program. The organizations must have good records of providing low-income housing under the section 515 program.

### *Sec. 807—Reuse of Section 515 Loan Authority*

The Secretary of Agriculture shall reuse section 515 loan authority that has been obligated, but not expended.

### *Sec. 808—Rights of Appeal*

Section 510(g) of the Housing Act of 1949 would be amended to prohibit the Secretary from excluding appealable decisions that are not based on objective standards in published regulations.

### *Sec. 809—Equity Takeout Incentive for New Rural Housing Loans*

Section 515(t)(4) of the Housing Act of 1949 would be amended so that moderate income or assisted replacement tenants would pay a graduated rent while a low income replacement tenant would only be required to pay the basic rent plus $2.00.

## TITLE IX—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

### SUBTITLE A—COMMUNITY DEVELOPMENT AUTHORIZATIONS

### *Sec. 901—Community Development Authorizations*

(a) *Community Development Block Grants.* The Community Development Block Grant is reauthorized through fiscal year 1983.

The program would be authorized at $3,031,700,000 for fiscal year 1991, $3,154,100,000 for fiscal year 1992, and $3,279,400,000 for fiscal year 1993.

(b) *Eligible Activities.* Activities assisted by the Community Development Block Grant will include providing technical assistance to public and private nonprofit entities for neighborhood revitalization or community economic development.

(c) *Public Services.* (1) Localities would be allowed to use up to 15% of program income for public services. (2) Public service funding for nonentitlement communities would be capped at 15% statewide.

(d) *Guarantees.* The Section 108 Loan Guarantee program would be reauthorized through fiscal year 1993. Loan Guarantees would be capped at $160,000,000 for fiscal years 1991, 1992, and 1993.

(e) *Rehabilitation Loans.* The Section 312 program would be reauthorized through fiscal year 1993.

(f) *Neighborhood Reinvestment Corporation.* The Neighborhood Reinvestment Corporation would be reauthorized at $28,000,000 for each of fiscal years 1991, 1992, and 1993.

### *Sec. 902—City and County Classifications*

(a) *Metropolitan City.* Cities classified as metropolitan cities for at least two years will retain their metropolitan city status.

(b) *Urban County.* Urban counties classified as such for at least two years would retain the urban county status.

### *Sec. 903—CDBG Sanctions*

The Secretary would be given the authority to adjust, reduce, withhold or withdraw CDBG grant funds if, after a hearing, the Secretary determines that the community is continuing to fail to satisfy published standards.

## SUBTITLE B—MISCELLANEOUS PROGRAMS

### *Sec. 911—Research and Development*

Appropriations would be reauthorized for research and development at $21,200,000 for fiscal year 1991, $22,100,000 for fiscal year 1992, and $23,000,000 for fiscal year 1993.

### *Sec. 912—Fair Housing Initiatives Program*

(a) *Authorizations.* Appropriations for the Fair Housing Initiatives would be reauthorized through fiscal year 1993. The program would be authorized at $6,000,000 for fiscal year 1991, $6,258,000 for fiscal year 1992, and $6,527,000 for fiscal year 1993.

(b) *Extension of Authority.* The Fair Housing Initiatives program would be reauthorized through fiscal year 1993.

## TITLE X—REPEALS AND CONFORMING AMENDMENTS

### *Sec. 1001—Amendment to Title I of the HCD Act of 1974*

Each unit of general local government receiving an entitlement block grant would be required to certify that it is following a HUD-approved current housing affordability strategy or a housing assistance plan which has been approved by HUD within 180 days of enactment of the National Affordable Housing Act. The current requirement for filing a Housing Assistance Plan (HAP) would be rescinded.

*Sec. 1002—Report on Residual Receipts Accounts in Section 8 and Section 202 Housing*

This section would direct HUD to study how much funds lie in residual receipts accounts in Section 202 and Section 8 housing and to identify the uses to which such accounts can be put under existing rules. The Secretary would required to submit to Congress a report detailing the findings of the study within 6 months of the enactment of this Act.

*Sec. 1003—Minimum State Share for Certain Housing Programs*

This section would guarantee each state a minimum share (0.5%) of the aggregate amount of funds available in each fiscal year for the following programs: Section 202 housing for elderly persons and persons with disabilities, public housing modernization (CIAP), public housing operating subsidies, and Indian housing development. The Secretary would be authorized to establish regulations to carry out the provisions of this section.

*Sec. 1004—Termination of Existing Housing Programs*

No new grants or loans would be made after October 1, 1990 for the following programs unless funds have already been appropriated—

(1) section 17(d) of the 1937 Housing Act;
(2) section 312 of the 1964 Housing Act;
(3) title VI of the 1987 Housing Act;
(4) section 8(e)(2) of the 1937 Housing Act, except for single room occupany units as authorized under the McKinney Homeless Assistance Act;
(5) section 810 of the 1974 Housing Act;
(6) title IV of the 1978 Housing Act;
(7) section 106 of the 1968 Housing Act;
(8) section 5(a)(2) of the 1937 Housing Act; and
(9) section 17(a) of the 1937 Housing Act, except as authorized under section 328 of this Act.

## REGULATORY IMPACT STATEMENT

In accordance with paragraph 11 of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement regarding the regulatory impact of the bill.

Enactment of the reported measure would provide federal assistance needed to achieve an adequate supply of decent, affordable housing with methods that, in the aggregate, would reduce regulatory and administrative burdens.

States and localities;
Rental credits;
New financing for elderly and handicapped.

## CHANGES IN EXISTING LAW

The Committee has determined that it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of rule XXVI, paragraph 12, of the Standing Rules of the Senate, with respect to this legislation.

## COST ESTIMATE

The Committee has requested a cost estimate of this legislation under the provision of section 403 of the Congressional Budget Act of 1974. The cost estimate of the Congressional Budget Office appears below.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, June 8, 1990.*

Hon. DONALD W. RIEGLE, Jr.,
*Chairman, Committee on Banking, Housing, and Urban Affairs,*
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 566, the National Affordable Housing Act.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
*Director.*

### CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 566.
2. Bill title: National Affordable Housing Act.
3. Bill status: As ordered reported by the Senate Committee on Banking, Housing and Urban Affairs on May 2, 1990.
4. Bill purpose: The bill would amend various laws relating to, and authorize funding for, the federal government's housing and community development programs.
5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

| | 1991 | 1992 | 1993 | 1994 | 1995 |
|---|---|---|---|---|---|
| Direct spending: | | | | | |
| Estimated budget authority | | | | | |
| Estimated outlays | −205 | −176 | 65 | 62 | 37 |
| Authorizations: | | | | | |
| Authorization level | 17,674 | 19,287 | 20,693 | | |
| Estimated outlays | 2,517 | 7,345 | 12,417 | 12,687 | 8,366 |

The costs of this bill fall within budget functions 370, 450, 600 and 750.

Basis of estimate:

### *Title II—Homeownership (Federal Housing Administration)*

Title II deals with programs of the Federal Housing Administration (FHA). First, this title would increase the ceilings for FHA's single-family mortgage insurance in fiscal years 1991 and 1992. These ceilings were increased for fiscal year 1990 only in the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act (Public Law 101-144). For a one-family residence in a very high-cost area, that act increased the maximum mortgage amount eligible for FHA insurance in 1990 from $101,250 to $124,875. This bill would extent that increase through September 30, 1992.

Other FHA amendments would require the Department of Housing and Urban Development (HUD) to delegate processing of certain multifamily mortgage insurance, and would increase the number of reverse mortgages that FHA could insure under an existing demonstration program.

Extension of the higher FHA mortgage ceiling would bring in additional receipts in the short run, because FHA would insure more mortgages and collect additional up-front premiums. Payment of claims would also increase, but over many years. CBO estimates that over the 1991-1995 period, this provision would result in a net outlay reduction of about $200 million. This estimate is highly sensitive to the level of increased demand for FHA insurance in the affected high-cost areas, which is very uncertain.

Increasing the number of reverse programs that FHA may insure under the demonstration program would also result in additional collections of up-front premiums. Again, claims would also increase in future years. Over the next five fiscal years, CBO estimates that net outlays would be reduced by about $14 million as a result of this change.

TITLE II

[By fiscal year, in millions of dollars]

| | 1991 | 1992 | 1993 | 1994 | 1995 |
|---|---|---|---|---|---|
| Federal Housing Administration: | | | | | |
| Budget authority | | | | | |
| Outlays | −205 | −176 | 65 | 62 | 37 |

### *Title III—Investment in Affordable Housing*

Title III would establish a program to make funds available to state and local governments for low- and moderate-income housing. The program would be administered by the Secretary of HUD. Appropriations of $2.0 billion for fiscal year 1991, $2.5 billion for 1992, and $3.0 billion for 1993 would be authorized. Of these amounts, $130 million per year in 1991 and 1992 would be set aside to continue the rental rehabilitation grant programs.

In order to be eligible for assistance under this title, a jurisdiction would be required to prepare and submit to HUD for approval a comprehensive plan detailing the need for low- and moderate-income housing facilities to assist the homeless or those threatened with loss of shelter. Information would be included describing how costs and other conditions in the local housing market would influence the use of funds authorized by this title. The plan would also identify the additional public and private resources that could contribute to the plan.

Funds provided a jurisdiction could be used in various ways to make available more housing that would be considered affordable under the terms specified in the bill. The rehabilitation of substandard housing would be preferred unless the jurisdiction determines that this would not be the most cost-effective means. Assistance could be made available to the ultimate recipient through direct loans, equity participation, interest subsidies, or other means that are consistent with the bill's requirements.

Participating jurisdictions would be required to match at least 25 percent of the funds provided by HUD. These contributions could be in the form of cash from nonfederal sources, the value of taxes and fees or other charges that are waived or deferred, the value of land provided, and other in-kind contributions approved by the department.

Subtitle C would require HUD to provide technical assistance to participating jurisdictions, state and local housing finance agencies and others to develop and implement affordable housing plans. If possible, this assistance would include contracts for up to three years with the jurisdictions involved or with other organizations specified in the bill. Of the amounts authorized for Title III, $25 million would be set aside annually to fund these activities.

Funds authorized by Title III could be put to a wide range of uses by program participants. CBO is not able to project the specific mix of activities that would be chosen. Negligible outlays are projected for the first year that Title III would be in effect. This would provide the time necessary for the participating jurisdictions and HUD to implement the provisions of a new program. For appropriations in subsequent years, 50 percent of the funds are projected to be disbursed in the first two years.

TITLE III

[By fiscal year, in millions of dollars]

| | 1991 | 1991 | 1993 | 1994 | 1995 |
|---|---|---|---|---|---|
| Affordable housing grants: | | | | | |
| Authorization level | 2,000 | 2,500, | 3,000 | | |
| Outlays | 6 | 741 | 2,298 | 2,944 | 1,505 |

### *Title IV—Homeownership and Opportunity Through HOPE*

Title IV would institute a program within HUD to provide grants to assist in the planning and implementation of low-income tentant ownership and management programs. This new program would support the Administration's housing initiative, "Homeownership and Opportunity for People Everywhere" (HOPE). Appropriations totalling $100 million for fiscal year 1991, $145 million for 1992, and $190 million for 1993 are authorized in the three subtitles of Title IV.

Subtitle A would provide grants to carry out approved public housing tenant ownership programs. For this purpose, the bill would authorize $50 million for 1991, $75 million for 1992, and $100 million for 1993. Funds would be used to acquire housing projects from public housing agencies for eventual resale to eligible families. Grants could also be used for the rehabilitation of public housing projects involved in the homeownership program. Expenses associated with any necessary relocation of tenants could also be covered. Planning grants limited to $100,000 per project would be available to assist in the work involved in developing and initiating an ownership program. Planning grants provided in each year could not exceed $2 million. Grant applicants must be organizations that represent the tenants of a housing project. These may include public housing agencies, resident management corporations or councils, or other public or private nonprofit organizations. Each grant recipient would provide contributions from nonfederal sources equal to at least 25 percent of the amounts received under this title. These contributions could consist of cash or be in the form or such things as forgone taxes and fees.

Subtitle B would authorize grants to provide for homeownership programs similar to those included in subtitle A. In this case, eligible properties would be those owned by HUD or financed by a mortgage owned by the department. Upon determination by the department, certain other properties would also be eligible. Again, as in subtitle A, 25 percent matching contributions would have to be provided by the grant recipients. The subtitle would authorize the appropriation of $25 million for 1991, $35 million for 1992, and $45 million for 1993. Techical assistance and planning grants would be authorized, limited to $2 million each year.

Subtitle C would authorize the appropriation of $25 million for 1991, $35 million for 1992, and $45 million for 1993. These grants would provide for the eventual tenant ownershp of certain types of properties not included in subtitles A and B. These could include single-fimily properties owned by HUD, the Department of Veterans Affairs, the Department of Agriculture, the Resolution Trust Corporation, and state and local governments. Multifamily properties owned by these entities but not otherwise covered by Title IV would also be eligible for this grant program. Program participants would be private nonprofit organizations or public agencies in cooperation with private nonprofit organizations.

It is difficult to project the rate at which potential program participants could develop, have approved, and implement the homeownership programs that would be financed by Title IV grants. It does not seem likely that significant outlays would occur in the year that funding would be made available. For the purposes of this estimate, no outlays are projected for the first year. Twenty-five percent of the amounts provided are estimated to be disbursed in the second year, with the balances spent over the next two years.

TITLE IV

[By fiscal year, in millions of dollars]

| | 1991 | 1992 | 1993 | 1994 | 1995 |
|---|---|---|---|---|---|
| Homeownership grants: | | | | | |
| Authorization level | 100 | 145 | 190 | | |
| Outlays | | 25 | 86 | 145 | 131 |

## *Title V—Affordable Rental Housing*

Subtitle A of Title V would authorize, for fiscal years 1991, 1992, and 1993, the appropriation of $50 million, $52 million, and $54 million, respectively, for the Flexible Subsidy Fund, and $412.5 million, $858 million, and $892.3 million, respectively, for the preservation of low-income housing and resident homeownership. Fund for the latter purposes would be designed to extend the low-income use of certain federally assisted rental projects after their HUD-insured mortgages have become eligible for prepayment. For projects that remain renter-occupied, these funds would allow increases in rental receipts to project owners, and would be provided in the form of amendments to existing Section 8 contracts, additional Section 8 contracts for current income-eligible tenants, or, if the projects were sold to qualified nonprofit organizations, in the form of up-front grants. Funds could also be used to provide up-front grants to enable the conversion of the projects to resident homeownership.

It is difficult to predict how the available funds would be distributed among the various uses. CBO estimates that about 14 percent of the authorized funds would be spent for amending existing Section 8 contracts for five years, about 56 percent for additional five-year Section 8 contracts, and about 30 percent for homeownership grants. These funds are estimated to preserve, for low-income use, projects with up to 21,000 units in 1991, and 42,000 units each in 1992 and 1993, with about 12 percent of these units estimated to be converted to resident ownership. These estimates assume that expiring Section 8 contracts for these projects would be renewed with other funds, although this subtitle would fund amendments to these contracts to permit higher rents. If other funds for renewing expiring Section 8 contracts are not available, authorized funds from this subtitle would likely be used. This would reduce the number of units that could be preserved.

Subtitle B of Title V would authorize for Section 8 rental assistance the appropriation of $2.9 billion, $3.0 billion, and $3.1 billion for fiscal years 1991, 1992, and 1993, respectively. Based on the program mix specified in the bill, this funding level could assist an estimated 86,000 units each year. The program mix included in this subtitle, however, provides no specific amounts for amendments to existing contracts if such are necessary. If amendments are required, and if other funds are not available, newly authorized funds would likely be used. This would reduce the number of units that could be assisted. No funds are authorized for renewing expiring Section 8 contracts.

Certain provisions in this subtitle could change the per unit cost of Section 8 certificates and vouchers and, thus, potentially change the number of units that could be assisted with available funds. Specifically, authorized fair market rent refinements might increase the average costs of new Section 8 certificates and vouchers. Adjustments authorized for voucher subsidies to households that stay in their current units when receiving a voucher could decrease the average cost for new vouchers. CBO has no basis, however, for estimating the net impact of these changes.

Subtitle C would authorize a set-aside of no more than 5,000 vouchers to be used in the Operation Bootstrap Program, a program to demonstrate the effectiveness of certain local strategies that would enable very-low-income families to achieve economic independence. There are no additional costs associated with this demonstration.

TITLE V

[By fiscal year, in millions of dollars]

| | 1991 | 1992 | 1993 | 1994 | 1995 |
|---|---|---|---|---|---|
| Flexible subsidy fund: | | | | | |
| Authorization level | 50 | 52 | 54 | | |
| Outlays | 12 | 38 | 52 | 40 | 14 |
| Preservation and resident homeownership: | | | | | |
| Authorization level | 412 | 858 | 892 | | |
| Outlays | 3 | 88 | 297 | 517 | 510 |
| Low-income rental assistance: | | | | | |
| Authorization level | 2,897 | 3,019 | 3,140 | | |
| Outlays | 22 | 390 | 851 | 1,319 | 1,461 |
| Total title V: | | | | | |
| Authorization level | 3,359 | 3,929 | 4,086 | | |
| Outlays | 37 | 516 | 1,200 | 1,876 | 1,985 |

### *Title VI—Housing For Persons With Special Needs*

Title VI would change current programs that extend housing assistance to elderly, handicapped, and homeless individuals and families. Several new programs would also be authorized.

Subtitle A would make major changes to Section 202 of the Housing Act of 1959. Under the current program, HUD provides subsidized direct loans to qualified nonprofit organizations for the purpose of developing housing for low-income elderly and handicapped persons. These tenants are required to contribute 30 percent of their adjusted incomes towards rental expenses. In order to ensure low-income occupancy, rental assistance is also provided.

The provisions of Title VI would change the current direct loans into non-interest-bearing advances. These advances would not be repaid as long as the housing remained available for its intended uses. Program participants would be required to contribute at least 5 percent of the project development costs. Rental subsidies would also be provided for costs not covered by rental receipts. Contracts to provide this subsidy would carry 20-year terms. Overall project costs and thus the necessary rental assistance would be reduced under the proposed amendments since debt service would not be a factor for a development financed with a capital advance. The CBO would not expect per unit program costs to change significantly.

The bill would authorize $628 million for capital advances in 1991, $659 million for 1992, and $685 million for 1993. Appropriations for operating subsidies in the same years would be authorized at $346 million, $363 million, and $378 million, respectfully. It is estimated that the amounts authorized for capital advances could support about 11,700 units per year. Annual operating subsidies of $1,500 to $1,600 per unit would be available if the amounts authorized were to be appropriated.

Subtitle A would authorize a new program to assist owners of existing federally assisted housing in making the housing more suitable to the frail elderly. Funds provided could be used to renovate individual units and public and common areas. The bill would authorize the appropriation of $50 million per 1991, $52 million for 1992, and $54 million for 1993. We would expect these amounts to be disbursed in a pattern similar to existing development and modernization programs.

The bill would establish a five-year demonstration program to test means by which independent living could be maintained by the frail elderly population. In the demonstration program, rental assistance vouchers would be combined with supportive services. The vouchers involved in the demonstration would be set aside from those otherwise available and could not exceed 1,500 in number. The bill would authorize the appropriation of $10 million for 1991 to provide the supportive services.

Subtitle B of Title VI would authorize capital advances and rental subsidies for handicapped households similar to those authorized in subtitle A for the elderly. Capital advances of $258 million would be authorized for 1991, $271 million for 1992, and $282 million for 1993. Operating subsidies of $234 million, $246 million, and $256 million would be provided for 1991, 1992, and 1993, respectively. The capital advances could support an estimated 5,000 units in each year.

Subtitle C would authorize funding for federal assistance to states and localities to care for homeless families and individuals. Appropriations of $220 million for 1991, $229 million in 1992, and $238 million for 1993 would be authorized to support emergency and transitional shelter activities as well as permanent housing for homeless disabled persons. Appropriations would also be authorized for HUD's moderate rehabilitation single-room occupancy program—$79 million for 1991, $82 million for 1992, and $85 million for 1993. This cost estimate assumes that these funds would be obligated and disbursed at rates consistent with the CBO baseline.

Subtitle D would authorize $246 million in 1991, $259 million in 1992, and $268 million in 1993 for a new program designed to provide rental assistance to homeless disabled persons—primarily those who are seriously mentally ill, have alcohol or drug problems, or suffer from the acquired immunodeficiency syndrome. These funds would be allocated to a new homeless rental assistance program, the single-room occupancy program, and the programs authorized in subtitle B of this title.

## TITLE VI

[By fiscal year, in millions of dollars]

| | 1991 | 1992 | 1993 | 1994 | 1995 |
|---|---|---|---|---|---|
| Capital advances—Elderly housing: | | | | | |
| Authorization level | 628 | 659 | 685 | | |
| Outlays | | 88 | 306 | 471 | 479 |
| Rental assistance—Elderly housing: | | | | | |
| Authorization level | 346 | 363 | 378 | | |
| Outlays | | | 2 | 16 | 34 |
| Project retrofit and independence demonstration: | | | | | |
| Authorization level | 60 | 52 | 54 | | |
| Outlays | | 15 | 40 | 54 | 42 |
| Capital advances—Handicapped housing: | | | | | |
| Authorization level | 258 | 271 | 282 | | |
| Outlays | | 36 | 126 | 194 | 197 |
| Rental assistance—Handicapped housing: | | | | | |
| Authorization level | 234 | 246 | 256 | | |
| Outlays | | | 1 | 11 | 23 |
| Homeless shelter assistance: | | | | | |
| Authorization level | 220 | 229 | 238 | | |
| Outlays | 19 | 122 | 182 | 185 | 92 |
| Section 8 single-room occupancy: | | | | | |
| Authorization level | 79 | 82 | 85 | | |
| Outlays | 1 | 4 | 12 | 19 | 23 |
| Shelter plus assistance: | | | | | |
| Authorization level | 246 | 259 | 268 | | |
| Outlays | 33 | 68 | 108 | 114 | 119 |
| Total Title VI: | | | | | |
| Authorization level | 2,071 | 2,161 | 2,446 | | |
| Outlays | 53 | 333 | 777 | 1,064 | 1,009 |

### *Title VII—Public and Indian Housing*

Title VII would authorize the appropriation of $4.4 billion for fiscal year 1991, $4.6 billion for 1992, and $4.8 billion for 1993. As explained below, these funds would be used primarily to modernize and operate public housing projects. Funding also would be authorized for construction of Indian housing units and for public and assisted housing drug elimination grants.

Subtitle A would authorize HUD to provide grant assistance to public housing agencies to finance substantial redesign and redevelopment of existing housing units. Funding for these grants would be included in the total amounts appropriated for public housing modernization activities pursuant to Section 14 of the U.S. Housing Act of 1937. The bill would require that $92 million be set aside for this purpose in 1991, $96 million in 1992, and $100 million in 1993. The CBO would expect that these funds would be disbursed in a pattern similar to the existing public housing modernization and construction programs. For this estimate, no outlays are projected during the year appropriations would be made available. The bulk of the expenditures would occur during the third and fourth years after funds are provided.

Subtitle B includes authorizations for two of HUD's public housing programs. About $1.9 billion would be authorized in 1991 for the public housing operating subsidy program. Another $1.9 billion and $2.0 billion would be provided for 1992 and 1993, respectively.

The bill would authorize the appropriation of $2.2 billion for 1991, $2.3 billion for 1992, and $2.4 billion for 1993 for the public housing modernization program. A portion of these funds is designated for use for the programs authorized in subtitles A and C.

Subtitle C would establish a program under which grants would be provided to public housing agencies to improve access to educational and job opportunities for families with children. Of the amounts made available for the public housing modernization program in Subtitle B, $50 million would be set aside for this purpose in 1991. $52 million for 1992, and $54 million for 1993.

Subtitle D would authorize appropriations for the Indian housing program. About $179 million would be available in 1991, $186 million in 1992, and $194 million for 1993. It is estimated that these amounts could assist 2,300 additional housing units each year.

Subtitle E would reauthorize public housing drug elimination activities. Appropriations of $150 million would be authorized for 1991. $156 million for 1992, and $162 million for 1993. If appropriated, these funds would be expected to be disbursed within two years.

### TITLE VII

[By fiscal year, in millions of dollars]

| | 1991 | 1992 | 1993 | 1994 | 1995 |
|---|---|---|---|---|---|
| Redesign, reconstruct existing projects: | | | | | |
| Authorization level | 92 | 96 | 100 | | |
| Outlays | | 7 | 38 | 70 | 89 |
| Operating subsidies: | | | | | |
| Authorization level | 1,865 | 1,940 | 2,017 | | |
| Outlays | 859 | 1,883 | 1,977 | 1,090 | 20 |
| Modernization grants: | | | | | |
| Authorization level | 2,074 | 2,158 | 2,244 | | |
| Outlays | | 249 | 822 | 1,311 | 1,416 |
| Project independence: | | | | | |
| Authorization level | 50 | 52 | 54 | | |
| Outlays | | 6 | 20 | 32 | 34 |
| Indian housing grants: | | | | | |
| Authorization level | 179 | 186 | 194 | | |
| Outlays | | 2 | 61 | 123 | 185 |
| Public and assisted housing drug elimination assistance: | | | | | |
| Authorization level | 150 | 156 | 162 | | |
| Outlays | 69 | 151 | 159 | 88 | 2 |
| Total title VII: | | | | | |
| Authorization level | 4,410 | 4,589 | 4,772 | | |
| Outlays | 928 | 2,299 | 3,077 | 2,713 | 1,746 |

## *Title VIII—Rural Housing*

S. 566 would authorize direct and guaranteed rural housing loans totaling $2.2 billion for 1991, $2.2 billion for 1992, and $2.3 billion for 1993. Of these amounts, about $1.5 billion in each of the years 1991 and 1992 and $1.6 billion in 1993 would be for single-family homeownership mortgages. About $0.7 billion would finance the construction of multifamily rental projects. In addition, about $400 million would be authorized in each year for rural rental assistance payments.

Title VIII would create a new grant program that would assist local governments and housing development organizations in preparing affordable housing programs. The appropriation of $10 million would be authorized for 1991, $10 million for 1992, and $11 million for 1993. We expect that these funds would be disbursed in a pattern similar to that assumed for the planning grants authorized in Title III of this bill. In addition, $80 million in 1991, $83 million in 1992, and $87 million in 1993 would be authorized for rural housing support grant programs.

The bill would provide the Farmers Home Administration the authority to defer the repayment of loan principal if the deferral is necessary to qualify a borrower for a mortgage loan. The assisted borrower would be expected eventually to repay the loan completely. The amount of principal deferred would be limited to 20 percent of the loan amount. CBO does not have sufficient data to estimate the cost of this provision, but we do not expect it to be substantial.

TITLE VIII

[By fiscal year, in millions of dollars]

| | 1991 | 1992 | 1993 | 1994 | 1995 |
|---|---|---|---|---|---|
| Rural housing loans and rental assistance: | | | | | |
| Authorization level | 2,555 | 2,657 | 2,763 | | |
| Outlays | 1,313 | 1,959 | 2,177 | 800 | 159 |
| Rural housing grants: | | | | | |
| Authorization level | 90 | 94 | 97 | | |
| Outlays | 22 | 50 | 77 | 61 | 40 |
| Total title VIII: | | | | | |
| Authorization level | 2,645 | 2,751 | 2,860 | | |
| Outlays | 1,335 | 2,009 | 2,254 | 861 | 199 |

### *Title IX—Community Development and Miscellaneous Programs*

Title IX would authorize appropriations for the Department of Housing and Urban Development's community development programs from 1991 through 1993, including the Community Development Block Grant Program, Section 108 guaranteed loans, payment to the Neighborhood Reinvestment Corporation and the Neighborhood Development Demonstration Program. This title would also authorize additional appropriations for fair housing and housing research.

TITLE IX

[By fiscal year, in millions of dollars]

| | 1991 | 1992 | 1993 | 1994 | 1995 |
|---|---|---|---|---|---|
| Community Development Block Grants: | | | | | |
| Authorization level | 3,032 | 3,154 | 3,279 | | |
| Estimated outlays | 121 | 1,369 | 2,667 | 3,062 | 1,786 |
| Neighborhood Reinvestment Corporation: | | | | | |
| Authorization level | 28 | 28 | 28 | | |
| Estimated outlays | 28 | 28 | 28 | | |
| Research and development: | | | | | |
| Authorization level | 21 | 22 | 23 | | |
| Estimated outlays | 6 | 17 | 21 | 16 | 5 |

TITLE IX—Continued

[By fiscal year, in millions of dollars]

| | 1991 | 1992 | 1993 | 1994 | 1995 |
|---|---|---|---|---|---|
| Fair housing: | | | | | |
| Authorization level | 6 | 6 | 7 | | |
| Estimated outlays | 2 | 6 | 6 | 5 | |
| Neighborhood development demonstration: | | | | | |
| Authorization level | 2 | 2 | 2 | | |
| Estimated outlays | 1 | 2 | 2 | 1 | |
| Total title IX: | | | | | |
| Authorization level | 3,089 | 3,212 | 3,339 | | |
| Estimated outlays | 158 | 1,422 | 2,725 | 3,084 | 1,791 |

*Title X—Miscellaneous Provisions*

Title X would terminate nine existing programs, including Section 312 rental rehabilitation loans, the Nehemiah program, Urban Homesteading and Congregate Services. Rental rehabilitation grants would also be terminated, after a two-year extension provided in Section 328 of the bill.

6. Estimated cost to State and local Governments: To the extent that they participate in the various grant programs authorized in the bill, states and localities would be required to match a portion of those grants. The matching rates would vary, depending on the program.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Marjorie Miller, Marta Morgan, Brent Shipp, and Carla Pedone.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

# ADDITIONAL VIEWS OF SENATOR LARRY PRESSLER

Shortly before we commenced hearings on the National Affordable Housing Bill, I became a cosponsor. I noted, however, that the legislation failed to provide fairly for the needs of the nation's nonmetropolitan areas. The Chairman of our Housing Subcommittee humorously referred to this as "conditional cosponsorship."

I am gratified to say numerous changes have been made in the proposed legislation that address the housing and community development needs in rural areas throughout the country. I no longer am a "conditional" cosponsor of the bill.

The Committee bill incorporates many of the provisions of S. 1371, the Rural Housing Revitalization Act, of which I am a cosponsor. It reauthorizes the successful housing program of the Farmers Home Administration and increases the authorization $300 million above the current services baseline.

Also, the Secretary of Agriculture is directed to designate 100 counties in FY 1991, FY 1992, and FY 1993 as targeted underserved areas to receive special housing assistance. Significantly, 29 of the 66 counties in my home state of South Dakota have poverty rates over 20 percent. Twenty-three counties have substandard housing rates of over eight percent. These provisions codify a successful program currently administered by the Farmers Home Administration.

One of the most important sections of the Committee bill is that which provides for Housing Opportunity Partnerships (HOPs), a program that would supply funds to participating jurisdictions for the development and rehabilitation of affordable housing. The bill originally provided that one-half of the funds would be distributed among the states, with each state receiving at least $3 million. The other one-half would be distributed among larger local governments. Since this system of allocation would work unfavorably for states such as South Dakota, where we have only two metropolitan areas, we were able to provide that if no local government within a state is eligible to become a participating jurisdiction, the state's allocation will be increased by $1.5 million—the so-called small state bonus.

The Community Development Block Grant program, which has worked well for cities and communities in rural areas, is reauthorized at the current funding level without modifying the present requirement that no less than 60 percent of the funds must be used for activities which benefit low- and moderate-income persons. Much of the success is attributed to the flexibility that the state and local governments have in administering the program. Increasing the targeting and requiring proportionate accounting would remove much of that flexibility. I am gratified to have taken the lead in retaining the present targeting requirement when we enacted the housing reform legislation (H.R. 1) late last year.

I especially am gratified that the Committee accepted my amendment to guarantee each state a minimum 0.5 percent share of the aggregate amount of funds available in each fiscal year for the following programs; Section 202 housing for elderly persons and persons with disabilities, public housing modernization (CIAP), public housing operating subsidies, and Indian housing development. Other programs were included in my original amendment, but these subsequently were deleted in a general amendment which was agreed to at the close of the Committee markup.

The Committee bill now includes provisions I strongly support. So long as they are retained during the legislative process, I will work for its enactment, and urge our colleagues to assist in this effort.

LARRY PRESSLER.

## ADDITIONAL VIEWS OF SENATOR CONNIE MACK

I was generally pleased with the dialogue between the Bush Administration and the Senate Banking Committee in the effort to draft a housing bill. However, I do have some concerns about S. 566 which led to my decision not to support it at this time.

Specifically, I opposed S. 566 for two main reasons. First, I believe its excessive budget level ignores the realities or a very serious federal deficit. At a time when the President and Congress are diligently and painfully seeking ways to reduce the deficit, the committee should have cooperated by authorizing levels of spending which were more responsible. Second, and perhaps even more importantly, the bill fails to sufficiently move away from the failed federal construction policies of the past.

I find this especially troubling in light of this committee's current investigation of the U.S. Department of Housing and Urban Development. As Ranking Member of the subcommittee conducting the investigation, I have heard testimony indicating that a substantial portion of these problems stemmed from a flawed manner of providing housing assistance. Complicated programs, large pots of discretionary dollars and a general absence of statutory foresight to prevent waste, led to a widespread misuse of federal housing dollars. Although past methods may have a role to play in housing policy, the potential it creates of misdirecting housing dollars to middlemen, rather than the poor, ought to be reexamined.

While the Administration's housing proposal may not provide the entire solution to the nation's housing problems, it offered the committee the opportunity to move toward a new direction of housing policy that focuses on people. In particular, the Administration's proposals on homeownership, Operation Bootstrap, Shelter Plus Care, Enterprise Zones, Elderly Independence and rental assitance respond to a broad spectrum of people in a manner sensitive to their individual needs. Each offers the opportunity for people to attain dignity, self-sufficiency and independence. Although significant portions of the Administration's proposal were incorporated in S. 566, I believe it was not enough.

I strongly agree with Secretary Kemp that our housing policy ought to shift from how many "units" the federal government constructs to how many lives it helps to improve. I hope this perspective is embraced as this legislation moves toward final passage.

CONNIE MACK.

# ADDITIONAL VIEWS ON S. 566

The Minority's vote on final passage of S. 566—with 4 votes for, 4 votes against, and 1 not voting—reflects some misgivings about the bill. On the one hand, S.566 represents a noble effort to develop comprehensive housing legislation to address the severe housing needs facing our nation. It provides a much-needed overhaul of current housing policies and programs. On the other hand, the bill fails to reflect several crucial realities in today's housing situation.

We believe that housing legislation should take into account a number of crucial factors. Housing programs need to foster homeownership and empowerment and should work in tandem with social service programs to provide the opportunity for people to lift themselves out of poverty. Flexibility at the state and local level is essential so that policies reflect local economic conditions. The decision-making process for programs needs to be streamlined so that the responsibility is clearly in one place—not dispersed throughout private, nonprofit, federal, state, and local decision-making structures. All of the different pieces in the housing puzzle need to fit together—tax policy, rental assistance, public housing, state and local programs need to be coordinated locally to meet housing needs most efficiently. And federal money should be used to leverage other resources so that we can get the most housing for our dollars. In philosophical terms, S. 566 moves in this direction, by rejecting a continuation of complex, federally mandated programs and moving toward a more flexible and locally-based approach to housing. In spite of mixed views relating to funding of new programs, we applaud the Committee for commencing a new direction for housing programs.

In spite of our concurrence with this focus, we all have reservations about the bill in its current form. We hope that these problems can be addressed as the bill moves through the legislative process. Our reservations about the bill derive from a handful of major issues which are discussed in greater length below.

These issues are: (1) the levels of new funding included in the bill's authorization levels, (2) the inadquate elimination of bureaucracy and delay so that funds may reach the local level quickly, (3) the advancement of housing legislation without knowing or addressing the potential problems of the Federal Housing Administration (FHA) mortgage insurance programs, (4) the extent to which the bill permits localities to use federal assistance for the new construction of housing, (5) the movement away from tenant-based subsidy towards project-based subsidy, (6) the minimal amount of consolidation of existing programs into HOP, and (7) the insufficient funding of HOPE.

## New Funding

Although we have not received a cost estimate from the Congressional Budget Office to date, we understand that S. 566, as reported by the Committee, authorizes a total of $57.4 billion over a three year period. More than $12 billion of this is new funding, over and above the CBO baseline.

For fiscal year 1991, the bill provides approximately $17.67 billion of spending on housing programs. This level is about $3.1 billion over baseline and about $3.5 billion over the President's budget.

For fiscal year 1992, the bill provides $19.3 billion for housing programs. $4.2 billion of this is over the CBO baseline. And for fiscal year 1993, the bill provides $20.5 billion for housing programs. $4.8 billion of this is new funding, over the CBO baseline.

Current analyses project that Congress must cut 1991 outlays by approximately $50 billion to meet the Gramm-Rudman-Hollings target. The Congress and the Administration have begun to discuss how to meet these spending tagets. While we recognize that this "Budget Summit" may allow for increased funding levels for select high priority domestic programs, it may be premature to authorize this level of new spending when Congress could have difficulty maintaining the current level of housing funding.

## FHA Reform

S. 566 does not include any provisions to improve the actuarial soundness of the FHA Insurance Fund. The Committee has anxiously been awaiting reports on the soundness of the FHA funds which were due to come to Congress March 15, 1990. Until GAO and Price Waterhouse appear before the Committee and testify, we have no idea if a real crisis in FHA looms on the horizon. Nor will we know the extent of the problem or the cost of any insolvency until the reports on the funds are completed and presented. The nation does not need another fiscal clamity resulting from a mismanaged or abused federal insurance fund.

## New Construction

There has been a significant debater during the last several years regarding federal new construction programs. We believe that there is substantial evidence to indicate that rehabilitation continues to be a less costly alternative than new construction. Moreover, in many areas there is ample housing stock in need of rehabilitation. Consquently, we feel that there must be a strong presumption in Federal production programs in favor of rehabiliiation.

S. 566, as reported, contradicts this orientation toward rehabilitation by allowing grantees to use HOP funds for new construction with almost no restrictions. While the Committee Print originally contained a provision to limit new construction (making new constuction (1) allowable only in extraordinary circumstances and (2) subject to the Secretary's discretion), this subsection was eliminated from the bill during markup. New construction may be the most efficient option in rare cases and, thus, local flexibility on this issue should be preserved, but we believe it is desirable to avoid the inefficient, deeply subsidized new construction programs of the past.

## Bureaucracy and Red Tape

S. 566 creates many new programs and organizations, including HOP, Project Retrofit, Project Independence, HOPE, Elderly Independence, Shelter Plus Care, the Commission on Credit Enhancement and several others. We are concerned that HUD not be overwhelmed with a broad array of new mandates that tax its administrative capacity.

The Republican members wish to agree with Henry David Thoreau. That is, "Simplify, simplify." We are unanimous in our commitment to get funding to the local level as quickly as possible. With limited dollars available for housing, we must ensure that the required bureaucratic steps between Washington and a recipient locality are as few as possible so that money is not frittered away on administration.

The elimination of the HOME Corporation improves the bill by minimizing some redundant bureaucracy, but we believe that the HOP can be simplified and streamlined even further.

## TENANT- AND PROJECT-BASED RENTAL ASSISTANCE

In the origninal version, S. 566 proposed to blend the Section 8 "certificate" and "voucher" forms of rental assistance to create one kind of rental assistance. The updated version of S. 566 being reported by the Committee drops this concept and, instead, makes changes to separate certificate and voucher programs. These changes exacerbate the differences between the two programs.

Some of the changes made in the current version of S. 566 are serious mistakes. In particular, we oppose the provision that would eliminate any restriction on the percentage of certificates that can be used for "project-based" subsidies. Under current law, only 15 percent of all certificates can be used for project-based assistance.

We believe that the current law makes sense and we continue to favor tenant-based rental assistance over project-based subsidy. Providing assistance directly to tenants allows individuals to choose to live where they want to live and allows the rental market to operate more efficiently. A certain amount of project-based assistance may be appropriate for specific housing programs, such as multifamily housing work-outs. However, to permit localities to use all of their allocation of incremental Section 8 certificates for project-based assistance is unwise.

Proponents of the provisions in S. 566 claim that localities need the flexibility to provide project-based assistance to facilitate the production of affordable housing under the Housing Opportunity Partnerships (HOP) program. We believe that this would be an unnecessary reversion to old housing programs that married project-based assistance to production funds—focusing more on the unit of housing instead of on the people who need housing assistance. When HUD's housing programs—including mortgage insurance, production assistance, and project-based rental assistance—are all tied to specific projects instead of provided directly to individuals, the housing system becomes vulnerable to abuse. Since its creation the Senate HUD Investigations Subcommittee has assessed and outlined abuses that have resulted from a multiple layering of subsidies. The federal government should seriously assess this issue before we move in that direction again.

## CONSOLIDATION OF EXISTING PROGRAMS

As orginally introduced, S. 566 did not consolidate any existing HUD programs into the new, more flexible program which provides assistance directly to states and localities, HOP. However, The Committee did adopt a "compromise" at the mark-up which consolidated a number of existing programs into HOP.

Although this consolidation did not go far enough, we agree with this approach for two major reasons: (1) because the discoveries of how HUD has mismanaged federal housing programs has reduced our confidence that the federal government can administer all categorical programs fairly and effectively, and (2) because state and local decision-makers are closer to the problem and can develop programs and approaches that best meet each community's particular needs. Therefore, providing funds directly to states and localities is a more sensible approach than administering numerous categorical scandal-prone discretionary programs from Washington. Consequently, we believe that the adopted "compromise" package is a good first step.

## HOPE GRANTS

We commend the committee for including most of the Administration's HOPE initiative in S. 566. HOPE is an innovative, creative group of legislative initiatives which make housing part of a concerted strategy to attack urban poverty. The baic principle behind the HOPE proposal is the idea that homeownership and economic opportunity are the basis of the American dream and these opportunities should be open to all Americans. We applaud the Administration's vision, and the Committee's inclusion of most of the HOPE package in S. 566. This will make bipartisan support for final passage of the bill much more likely.

Many Republican members on the Committee are also concerned that the funding level for HOPE currently in the bill is less than what was proposed by the Administration. These members support additional funding for HOPE and believe that it should be shifted from the HOP program so that this change would be budget neutral.

## CONCLUSION

To summarize, we believe that S. 566 represents a significant effort to produce comprehensive housing legislation. It moves away from the crazy quilt of inefficient categorical programs now on the books. We hope, however, that substantial changes and improvements will occur as the legislative process moves forward.

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